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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

* * * * *
COMMONWEALTH OF MASSACHUSETTS
vs. Indictment No.
KAREN READ 2282CR00117
* * * * *

Day 15 - Trial with Jury
Before the Honorable Beverly Cannone

APPEARANCES:

For The Commonwealth:
BY: Adam Lally
Laura McLaughlin
Assistants District Attorney

For Karen Read:
BY: Alan Jackson
David Yannetti
Elizabeth Little
Attorneys at Law

Norfolk Superior Courthouse
Dedham, Massachusetts
Friday, May 10, 2024

Paula M. Mills
Retired Certified Court Reporter
and Court Transcriptionist

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Nicole Albert				
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P R O C E E D I N G SMay 10, 2024

(Court in session at 9:07 a.m.)

(Defendant present. Jury not present.)

THE CLERK: 22-117, Commonwealth versus Karen Read. Would counsel please identify yourselves for the record?

MR. LALLY: Adam Lally, for the Commonwealth. Good morning, Your Honor.

THE COURT: Good morning, Mr. Lally.

MS. MC LAUGHLIN: Good morning, Your Honor. Laura McLaughlin, for the Commonwealth.

THE COURT: Good morning, Ms. McLaughlin.

MR. JACKSON: Good morning, Your Honor. Alan Jackson, for Ms. Read.

THE COURT: Good morning, Mr. Jackson.

MS. LITTLE: Good morning, Your Honor. Elizabeth Little, also on behalf of Ms. Read.

THE COURT: Good morning, Ms. Little.

MR. YANNETTI: And good morning, Your Honor. David Yannetti, for Karen Read.

THE COURT: Good morning, Mr. Yannetti. Good morning, Ms. Read.

THE COURT: All right. Did counsel want to see me at sidebar?

1 MR. YANNETTI: I had asked, Your Honor. Thank
2 you.

3 THE COURT: Okay.
4 (Whereupon, there was a sidebar conference as
5 follows:)

6 MR. YANNETTI: I thought it made sense, Your
7 Honor, because we are having the witnesses that are
8 coming up who will involve federal documents,
9 potentially admissible, potentially useable. And
10 we wanted to get some clarity as to how we refer
11 specifically to, you know, testimony before a
12 different grand jury other than the grand jury in
13 this case.

14 THE COURT: Well, just grand jury and a date,
15 right, because the dates are off by a year, maybe,
16 or how long?

17 MR. LALLY: About a year.

18 MR. YANNETTI: Right. Well, our concern is we
19 don't want it to be left, the jury to be left, with
20 the impression that the Commonwealth in this case
21 convened another grand jury and that they were the
22 ones asking the questions of the witnesses.

23 Our position is the context matters, and our
24 suggestion was going to be that the witness be
25 alerted to the fact that this was a different grand

1 jury conducted by a different office or agency and
2 that neither Mr. Lally nor I, the prosecution and
3 the defense in this case, was not involved or
4 present.

5 THE COURT: Okay. So I kept out the whole
6 federal --

7 MR. YANNETTI: I haven't mentioned the word
8 "federal."

9 THE COURT: No, no. So I think it's just you
10 testified before a grand jury on this particular
11 date and Mr. Lally wasn't there and I wasn't there.

12 MR. YANNETTI: Okay. We can deal with that.

13 THE COURT: Thank you.

14 MR. YANNETTI: Secondly -- now I've lost my
15 chain of thought.

16 THE COURT: The security issue is what I
17 thought we were coming over for.

18 MR. YANNETTI: Oh, yeah. There was that, too.
19 That is the second issue. Yeah.

20 THE COURT: That should have been the first
21 issue.

22 THE COURT: All right. So as far as I'm
23 concerned, it is certainly a very important issue.
24 Mr. Fahey, please, assistant director or regional
25 director.

1 Could you please come and just report on the
2 record, and all this is sealed on the record, what
3 the trial court folks have done? These are our
4 microphones. So you do need to come a little
5 closer.

6 MR. FAHEY: All right. After looking into the
7 incident --

8 THE COURT REPORTER: I can't hear.

9 THE COURT: You need to speak into these.

10 MR. FAHEY: A little closer? All right.

11 After looking into an incident reported to us,
12 the security department concludes that one court
13 user's behavior did not align with the proper
14 dignity and decorum expected in a Massachusetts
15 courtroom. As a result, we have informed the party
16 that he will not be allowed to enter Norfolk
17 Superior Court for the duration of this trial.

18 MR. YANNETTI: That's acceptable to us.

19 THE COURT: And you've already told them about
20 assigning Officer Dunn?

21 THE COURT OFFICER: Yes.

22 MR. YANNETTI: We discussed that with our
23 client. I think our position is my client being
24 allowed to use the court officers' bathroom, which
25 we greatly appreciate, will solve the problem here.

1 She doesn't need somebody walking with her through
2 the courthouse because she has counsel. She is
3 almost always with somebody.

4 THE COURT: I was surprised, frankly, that you
5 weren't with her on this occasion when she walked
6 down the steps.

7 MR. YANNETTI: Almost every time when she goes
8 to the bathroom I go with her. For whatever
9 reason, I didn't this time.

10 THE COURT: There are so many bystanders. And
11 just so the record is clear, what we have proposed
12 and what we are willing to do is assign a female
13 officer here to your client. Eugenia Dunn is a
14 phenomenal officer. She has worked closely with
15 me on trials and has been assigned to protect me
16 during trials in this building. She's fantastic
17 and she will simply walk with your client anytime
18 she leaves the courtroom. But, if you're telling
19 me you don't want that, we won't do that.

20 MR. YANNETTI: We don't. And I would put on
21 record that the security in this case has been
22 phenomenal. We appreciate all the consideration
23 from this Court and the security, but I think we'll
24 be satisfied as long as she can use that bathroom.

25 THE COURT: Okay.

1 MR. YANNETTI: Just one other issue, Your
2 Honor, which you don't have to give us an answer
3 now, obviously, but I wanted to flag it for the
4 Court.

5 We are breaking for Memorial Day Weekend on
6 May 24th. That is the Friday. We have obviously
7 the Monday off because that is Memorial Day. And
8 then we have another off day, I believe, on May
9 29th, which is that Wednesday, which means that the
10 only court day that we have been -- the 24th and
11 the 30th would be a half day on the --

12 THE COURT: So do you want to go all day on
13 the 28th?

14 MR. YANNETTI: Well, I was going to ask if we
15 could have that day off instead of going a half
16 day. The reason, Your Honor, is the trial is
17 difficult on the lawyers, but that's not the issue.
18 It's more difficult, I would assert, on the
19 lawyers' families.

20 THE COURT: I don't have a problem with
21 changing the schedule. So I can tell you on that
22 week, on the 30th, that Thursday, [REDACTED]

23 **Court Order: Jurors or Juror Issues** We
24 will probably stop at 12 on that day. And we are
25 not in session on the 29th and 31st.

1 So if you wanted to have the 30th off, it
2 would be two long weekends in a row for counsel.
3 It would be --

4 MR. JACKSON: That would be incredibly nice.

5 THE COURT: So you'd have the long weekend.
6 We would break on the 24th and you'd be off the
7 Memorial Day, that Monday, the 27th. We could do a
8 full day on the 28th and then have Wednesday,
9 Thursday, Friday off.

10 MR. YANNETTI: That's great.

11 THE COURT: So you'd get two long weekends.

12 MR. YANNETTI: Beautiful.

13 THE COURT: I mean, I wanted to propose that
14 because counsel is here from California.

15 MR. YANNETTI: He's got a very young daughter.
16 My daughter is not seeing me, either. It would be
17 great.

18 THE COURT: It goes with the territory, right?
19 I tried cases.

20 MR. YANNETTI: Of course.

21 THE COURT: But I do understand. And I was
22 going to offer that so that they'd be off that
23 Wednesday, Thursday, Friday. That's one day, and
24 it would be a full day.

25 MR. YANNETTI: Wonderful. Awesome. Thank

1 you.

2 MR. LALLY: One other issue, Your Honor.

3 THE COURT: Okay.

4 MR. LALLY: The Commonwealth filed a motion to
5 exclude Mr. Kearney (phonetic) while certain
6 witnesses are testifying and some of those
7 witnesses are here today, as is Mr. Kearney.

8 THE COURT: All right. Does the defendant
9 take any position on this?

10 MR. YANNETTI: No.

11 THE COURT: Okay. I just was told someone
12 wanted to tell me that Tim Bradl was on his way.
13 So I read the Commonwealth's motion. If Mr. Bradl
14 is here, he has a right to be heard, as well, as
15 I'm concerned on this motion, just so it's clear.
16 You're moving to exclude Aidan Kearney, who has
17 been given SJC 119 status recently. So we will
18 have a hearing on your motion. Mr. Bradl has a
19 right to be heard. Mr. Kearney has a right to be
20 heard. But you're not asking for him to be
21 excluded during the witness who is presently on the
22 stand, right?

23 MR. LALLY: No.

24 THE COURT: Okay. I just took a quick look at
25 the names. I need to highlight them. And your

1 witness after Julie Albert is through?

2 MR. LALLY: Nicole Albert.

3 THE COURT: Okay. Is she on this list?

4 MR. LALLY: She's not on the list as a named
5 victim, Your Honor. But part of Mr. Kearney's
6 activities have included her residence. So I think
7 what they did as far as the main victim was they
8 put Brian Albert, her husband. But I would submit
9 I think she falls into that category.

10 THE COURT: All right. So we will have a
11 hearing, I guess, after this witness. All right.

12 MR. LALLY: That's fine. Thank you.

13 THE COURT: Are we all set?

14 MR. YANNETTI: Yes.

15 THE COURT: Okay. Thank you.

16 (Whereupon, the sidebar conference concluded.)

17 THE COURT: All right. So bring the jury in.

18 (Whereupon, there was a short recess.)

19 (Court resumes at 9:18 a.m.)

20 (Defendant present. Jury present.)

21 THE COURT: Good morning again, counsel. Good
22 morning again, Ms. Read. Good morning, jurors.
23 Happy Friday. And I appreciate you all being here
24 ready, willing and able to start. We got an
25 awfully lot done in about five or seven minutes

1 over here at sidebar. So we made you wait, but in
2 the long run it will speed things up and it will
3 make things go more smoothly, so we appreciate your
4 patience.

5 Those same three questions. Have you all been
6 able to follow the instruction and refrain from
7 discussing this case with anyone since we left
8 yesterday?

9 Everyone said "yes" or nodded affirmatively.

10 Were you all able to follow the instruction
11 and refrain from doing any independent research or
12 investigation into this case?

13 Everyone said "yes" or nodded affirmatively.

14 Did anyone happen to see, hear or read
15 anything about this case since we left yesterday?

16 (Whereupon, jurors responded in the negative.)

17 THE COURT: One thing I did want to say to you
18 folks is, if you can't hear a witness or a lawyer
19 or you can't see something, I don't know that
20 unless you raise your hand. So if you raise your
21 hand, the court officers don't have the power to
22 say to the witness please answer that again and
23 speak louder, but I can. So if you raise your
24 hand, the court officer will come over and let me
25 know and we can make sure that happens. All right?

1 So I remind counsel to keep their voices up. And
2 you've been doing a great job of moving out of the
3 way of the jurors toward the end there, so please
4 continue to do so.

5 All right. Is Ms. Albert here?

6 (Whereupon, the witness was again sworn.)

7 THE COURT: Okay. I am just going to remind
8 you to keep your voice up, please, Ms. Albert,
9 okay?

10 THE WITNESS: Okay.

11 THE COURT: All right. Mr. Yannetti.

12 MR. YANNETTI: Thank you, Your Honor.

13 Whereupon,

14 JULIE ALBERT

15 having been first duly sworn, continued to be examined
16 and testified as follows:

17 CONTINUED CROSS-EXAMINATION

18 BY MR. YANNETTI:

19 Q Good morning, Ms. Albert.

20 A Good morning.

21 Q Ma'am, you will recall yesterday I broached
22 the topic with you of how often you and Courtney
23 Proctor speak to each other over the phone. Do you
24 recall that line of questioning?

25 A Yes.

1 Q And when I asked you to describe the frequency
2 of those phone calls I didn't put any words in your
3 mouth; did I? I didn't suggest how frequently they
4 were? You came up with the word?

5 A I don't really --

6 Q Well, let me put it this way. When I asked
7 you how often you talked to Courtney Proctor, you could
8 have chosen any word in the English language to answer
9 that question; correct?

10 A Correct.

11 Q What was the word that you chose?

12 A Not often? I don't remember.

13 Q How about rarely?

14 A Rarely.

15 Q That was your word; correct?

16 A It could have been. I don't really recall. I
17 don't recall.

18 Q You don't recall telling this jury yesterday
19 when I asked you about how often you spoke to Courtney
20 Proctor by phone you said, well, rarely?

21 A I don't remember.

22 Q What is your definition of "rarely"?

23 A Not daily. Not daily. Not --

24 Q Seldom?

25 A Yes.

1 Q Once in a blue moon?

2 A No.

3 Q Rarely doesn't mean to you 67 phone
4 conversations within a seven-month period; does it?

5 A A 67 time period in how many? Eight months?

6 Q In about seven months, 67 times.

7 A It's not a lot. I wouldn't think it's a lot
8 in seven months.

9 Q Three times in one day, is that rarely?

10 A No. But I'm not -- that wasn't every day.

11 Q Okay. Well, when you left the stand yesterday
12 did you log into your account or check any old bills to
13 confirm those 67 calls?

14 A No, I did not.

15 Q Did you speak to Mr. Lally about those 67
16 calls after we broke yesterday and before you took the
17 stand today?

18 A I don't believe so, no.

19 Q Did you call Courtney Proctor on one of those
20 rare occasions yesterday?

21 A No, I did not.

22 Q This morning?

23 A No, I did not.

24 Q Were you curious as to whether or not you had
25 actually called her those 67 times?

1 MR. LALLY: Objection.

2 THE COURT: Sustained.

3 BY MR. YANNETTI:

4 Q All right. In any case, regarding all of
5 those 67 phone calls from February 1st until
6 September 6th, do you maintain that during none of
7 those calls or any portion of those calls did you and
8 Courtney Proctor discuss the investigation into the
9 death of John O'Keefe?

10 A I do not remember.

11 Q Do you deny discussing that investigation?

12 A I don't deny it, but I do not remember.

13 Q All right. Well, you admitted yesterday
14 after having seen records that you spoke with
15 Michael Proctor's sister for 12 minutes on February 1st
16 of 2022. Do you recall that?

17 A I don't recall the conversation, no.

18 Q But that --

19 A It was a long time ago.

20 Q I'm sorry. I don't mean to interrupt you.
21 Finish your answer.

22 A I'm sorry. It was a long time ago. I just
23 don't remember.

24 Q Okay. But my question is, after seeing the
25 records, you saw the phone call for over 12 minutes;

1 correct?

2 A Correct.

3 Q And you also remember that that was the very
4 day that the police arrested Karen Read for this case;
5 correct?

6 A Correct.

7 Q The arrest of Karen Read on February 1st was
8 pretty big news in Massachusetts; correct?

9 MR. LALLY: Objection.

10 THE COURT: Sustained.

11 BY MR. YANNETTI:

12 Q You had seen that arrest all over the news;
13 correct?

14 A Correct.

15 Q So you certainly -- given the day and the fact
16 that it was February 1st and my client was arrested
17 that day and you're talking to the lead investigator's
18 sister, the subject of Karen Read's arrest had to have
19 come up; right?

20 MR. LALLY: Objection.

21 THE COURT: Sustained. Ask it differently.

22 BY MR. YANNETTI:

23 Q You certainly mentioned my client's arrest
24 with Courtney Proctor on the very day that she was
25 arrested and you were talking to Courtney; correct?

1 A Correct.

2 Q All right. Now, when we broke for the day
3 yesterday I had also asked you about the three phone
4 calls that you had with Michael Proctor's sister on the
5 morning of February 2nd when my client was arraigned;
6 correct?

7 A Correct.

8 Q And you recall that her arraignment was
9 televised publicly; correct?

10 MR. LALLY: Objection.

11 THE COURT: Sustained. Ask it differently.

12 BY MR. YANNETTI:

13 Q You saw her on the news being arraigned;
14 correct?

15 A Correct.

16 Q And one of those phone calls after -- well,
17 strike that.

18 With regard to the three phone calls before
19 the arraignment, you knew at that time that my client
20 had been arrested the day before; correct?

21 A Correct.

22 Q And you knew she would be arraigned in court
23 that morning; correct?

24 A Correct.

25 Q Certainly, when you were talking to

1 Michael Proctor's sister on February 2nd before her
2 9:00 o'clock arraignment, you were discussing the
3 9:00 o'clock arraignment; correct?

4 A Can you repeat the end of that, please?

5 Q Sure. On February 2nd, the day that my client
6 was scheduled to be arraigned in Stoughton District
7 Court -- we're talking about the three phone calls that
8 you made to Michael Proctor's sister before that
9 arraignment that very day. And my question is,
10 certainly, you were discussing the fact that she was
11 about to be arraigned; correct?

12 MR. LALLY: Objection.

13 THE COURT: Sustained. Ask it differently,

14 Mr. Yannetti.

15 BY MR. YANNETTI:

16 Q Did the subject of Karen Read's arraignment
17 come up in any of those three calls on February 2nd,
18 the day she was going to be arraigned, before her
19 arraignment?

20 A I don't remember exactly.

21 Q What about the 27-minute phone call that you
22 had with Courtney Proctor at 12:58 a.m. that same day
23 after my client was arraigned in court? Did you
24 discuss the arraignment that had just happened?

25 A I do not remember.

1 Q You had already testified that by 2022 you
2 were no longer babysitting for Courtney Proctor's kids;
3 correct?

4 A I wasn't babysitting regularly like I was
5 before.

6 Q So is it your testimony that you happened to
7 be talking about babysitting on February 2nd for 27
8 minutes, the same day that my client was arraigned in
9 Stoughton District Court?

10 A I don't remember what I was talking about. It
11 could have been about the kids. It could have been
12 about -- it could have been about anything. I don't
13 remember.

14 Q Sure. And, certainly, it could have been
15 about the publicly-televised arraignment that had just
16 occurred; correct?

17 MR. LALLY: Objection.

18 THE COURT: So I'll allow this, and then let's
19 move on.

20 Can you answer that?

21 A Yes, it could have been. Yes.

22 BY MR. YANNETTI:

23 Q All right. Did you tell Courtney Proctor
24 during any of these 67 phone calls that you were a
25 witness in her brother's case?

1 A I don't remember.

2 Q Okay. Ms. Albert, you were at the Waterfall
3 on the night of January 28th; correct?

4 A Yes.

5 Q And you also went to 34 Fairview on the
6 morning of January 29th?

7 A Yes.

8 Q Yet as of the date of these phone calls that
9 we've discussed so far, the February 1st and the
10 February 2nd multiple phone calls, Trooper Proctor
11 still had not interviewed you; correct?

12 A Correct.

13 Q You were finally interviewed by Trooper
14 Proctor on February 10th, about 13 days after
15 John O'Keefe was found dead on Brian Albert's lawn;
16 correct?

17 A Correct.

18 Q And you told Courtney Proctor that you were
19 nervous to speak to her brother, Trooper Proctor, about
20 this case. Do you remember that?

21 A I do not remember those exact words, no.

22 Q All right. But you were nervous to speak to
23 him; correct?

24 A Of course. I'd be nervous in general for a
25 police interview. I mean, I don't know someone who

1 wouldn't be.

2 Q Were you worried that one of Trooper Proctor's
3 colleagues might ask to speak to your son Colin about
4 what had happened on the 28th and the 29th?

5 MR. LALLY: Objection.

6 THE COURT: I'm going to allow that.

7 A Was I nervous they would ask my son?

8 BY MR. YANNETTI:

9 Q Yeah. Were you nervous that one of the
10 investigators in this case might approach your son to
11 ask him about his whereabouts?

12 A No.

13 Q All right. In any case, you were interviewed
14 at 5:30 p.m. on February 10th; correct?

15 A Correct.

16 Q Where did that interview take place?

17 A At my home in Canton.

18 Q Who was present for that interview?

19 A Me, my husband, Trooper Proctor, and Trooper
20 Bukhenik.

21 Q Michael Proctor agreed to interview you and
22 your husband together; correct?

23 MR. LALLY: Objection.

24 THE COURT: Sustained.

25 BY MR. YANNETTI:

1 Q You and your husband were interviewed
2 together; correct?

3 A Correct.

4 Q Did either of these troopers, including
5 Michael Proctor, suggest that maybe the two of you
6 should be separately interviewed?

7 A I don't recall.

8 Q Where did the interview take place within your
9 home?

10 A In my family room.

11 Q Were you sitting on coaches?

12 A Yes.

13 Q You were comfortable?

14 A Yes.

15 Q You were not in a police interrogation room;
16 correct?

17 A No, I was not.

18 Q And it wasn't particularly lengthy; correct?

19 A What do you define lengthy? I don't remember
20 how long it was exactly.

21 Q It didn't go into the evening; correct?

22 A No.

23 Q And then Michael Proctor and the other trooper
24 left; correct?

25 A Correct.

1 Q Then at some 6:17 p.m. that same night,
2 shortly after you had been interviewed, you called
3 Michael Proctor's personal cell phone number; correct?

4 A I don't remember.

5 MR. YANNETTI: If I may have a moment?

6 THE COURT: Okay.

7 BY MR. YANNETTI:

8 MR. YANNETTI: You didn't bring your cheaters
9 today? Oh, you did. Good. Okay.

10 May I approach, Your Honor?

11 THE COURT: Yes.

12 BY MR. YANNETTI:

13 Q I'm going to hand you one document. There's
14 an orange sticky on it. You can ignore it. But
15 right above the orange sticky there's a date of
16 February 10th. That's what I'm directing your
17 attention to. If you could look at those two phone
18 calls, ma'am, and look up me when you're done.

19 MR. YANNETTI: If I may approach?

20 THE COURT: Yes.

21 BY MR. YANNETTI:

22 Q Did that refresh your memory about those two
23 phone calls on February 10th?

24 A I mean, I just read them, but I don't
25 remember.

1 Q Okay. You called Trooper Proctor at 6:17 p.m.
2 and it appears to be a five-second phone call. Did you
3 see that?

4 MR. LALLY: Objection, Your Honor.

5 THE COURT: Sustained.

6 BY MR. YANNETTI:

7 Q Do you recall that Trooper Proctor called you
8 back that same day at 6:21 p.m. and that you spoke for
9 about four minutes?

10 MR. LALLY: Objection, Your Honor.

11 THE COURT: Sustained.

12 BY MR. YANNETTI:

13 Q Do you deny speaking to Trooper Proctor for
14 four minutes when he called you from his personal cell
15 phone on February 10th of 2022 after you had been
16 interviewed that day?

17 A No, I don't deny it, but I don't remember it.

18 Q When did you get his personal cell phone
19 number?

20 A I don't remember.

21 Q Years ago?

22 A I'm sure, yes.

23 Q Because you've known that family for a long
24 time?

25 A Yes, I have.

1 Q And, as you testified here today, you can't
2 remember what that phone call would have been about;
3 correct?

4 A No, I do not remember.

5 Q Okay. I'd like to contrast your relationship
6 with Karen Read versus your relationships with
7 Jennifer McCabe and Courtney Proctor. You would agree
8 with me, and I think you testified yesterday, that
9 Jennifer McCabe is one of your best friends?

10 A Correct.

11 Q And you call her Jen; correct?

12 A Yes.

13 Q And Courtney Proctor is also one of your best
14 friends; correct?

15 A She's not one of my best friends, no. She's a
16 good friend. She's not one of my best friends.

17 Q Oh. She's --

18 A She's my sister's best friend.

19 Q Got you. Okay. So your sister Jill --

20 A My sister Jillian, yes.

21 Q Jillian is best friends with Courtney Proctor
22 and you are close friends with her but not best
23 friends?

24 A Correct.

25 Q But you really only knew Karen Read as

1 John O'Keefe's girlfriend; correct?

2 A Correct.

3 Q She was just an acquaintance of yours?

4 A Yes.

5 Q There are no photos of you in a hot tub
6 together, right, you and Karen Read?

7 A No.

8 Q There are no photos of you with your arms
9 around each other at the beach; correct?

10 A No.

11 Q You've never been to a baby shower with
12 Karen Read; correct?

13 MR. LALLY: Objection, Your Honor.

14 THE COURT: Sustained.

15 BY MR. YANNETTI:

16 Q You didn't have any contact with Karen Read
17 while you were growing up; correct?

18 A No.

19 Q Karen Read was definitely not from Canton;
20 correct?

21 MR. LALLY: Objection, Your Honor.

22 THE COURT: I'll allow this and then you can
23 move on, Mr. Yannetti.

24 A No, she was not,

25 MR. YANNETTI: One more question.

1 BY MR. YANNETTI:

2 Q She was an outsider, correct, to Canton?

3 A She didn't live in Canton.

4 Q All right. But after she started dating John
5 you would see her driving in and out of the street;
6 correct?

7 A Yes.

8 Q You'd see her taking groceries in; correct?

9 A Yes.

10 Q Because you were neighbors with John?

11 A Yes.

12 Q And it was the fact that you'd see her around,
13 you know, taking groceries in and out of the house and
14 being outside with the kids that led you to believe
15 that she was not only connected to John but also to his
16 house on Meadows Ave.; correct?

17 A Yes.

18 Q And you would see her interacting with the
19 kids outside; correct?

20 A Yes.

21 Q She would be participating in family-type
22 activities with the kids outside?

23 A Yes.

24 Q And you'd see her enough that you assumed that
25 she was living there; correct?

1 A Yes.

2 Q And I believe you stated that you had known
3 her or seen her for maybe about a year and a half or
4 so. Is that a good estimate?

5 A Yes.

6 Q And in all the time that you saw her in the
7 neighborhood or had any contact with her and John, you
8 never saw the two of them fight or argue; correct?

9 A No.

10 Q You never heard them fight or argue; correct?

11 A No.

12 Q And you had been out with them in a group
13 setting a handful of times; correct?

14 A Just a couple of times.

15 Q And during those times they always appeared to
16 get along; correct?

17 A Yes.

18 Q And you knew of no problems in their
19 relationship; correct?

20 A No.

21 Q And you were particularly impressed with the
22 time Karen spent with John's adopted children?

23 MR. LALLY: Objection.

24 THE COURT: Were you?

25 A Can you repeat that last question?

1 Q Yes. You were particularly -- you were
2 impressed with the amount of time that Karen spent with
3 John's children?

4 A I didn't know the exact, really, amount of
5 time that -- I mean, she was there a lot, yes. So,
6 yes, I would assume that she spent a lot of time with
7 them, yes.

8 Q Okay. Now, on Friday, January 28th, you had
9 plans with your sister-in-law, Nicole; correct?

10 A Yes.

11 Q You are close with Nicole?

12 A Yes, I am.

13 Q You picked her up at her home in your car?

14 A Yes.

15 Q You drove her to the Waterfall; correct?

16 A Correct.

17 Q And the two of you went for dinner there?

18 A Yes.

19 Q Your husband, Chris, came later?

20 A Yes.

21 Q Brian Higgins came later?

22 A Yes.

23 Q And you knew Brian Higgins; correct?

24 A Yes.

25 THE COURT: Mr. Yannetti, I'm going to stop

1 you for one minute.

2 MR. YANNETTI: Yes, Your Honor.

3 THE COURT: All right. Thank you,
4 Mr. Yannetti.

5 MR. YANNETTI: No. Thank you, Your Honor.

6 BY MR. YANNETTI:

7 Q I believe you testified that you knew
8 Brian Higgins at that time; correct?

9 A Yes.

10 Q And how did you know him?

11 A He is a friend of my brother-in-law.

12 Q And your brother-in-law would be Brian Albert;
13 correct?

14 A Yes.

15 Q And, by the way, when I just asked you that
16 question about how you knew Brian Higgins and what his
17 relationship was to Brian Albert, you didn't hesitate
18 to say that they were friends; correct?

19 A Correct.

20 Q It was very clear that they were friends;
21 correct?

22 A Correct.

23 Q In fact, the two of them arrived at the bar
24 together; correct?

25 A Yes.

1 Q And it didn't surprise you to see the two of
2 them together; correct?

3 A No.

4 Q Karen and John came sometime after that?

5 A I believe shortly after that, yes.

6 Q And they walked over to your table?

7 A Yes.

8 Q And then John kind of came up from behind you
9 and sort of in a joking way dug his finger into your
10 shoulder?

11 A Correct, yes.

12 Q And essentially said, you know, you know,
13 what's up and that was about it and he went on;
14 correct?

15 A He made a -- he said what's up and made a
16 joke.

17 Q And the joke was, given the fact that you and
18 your husband moved from the neighborhood, they decided
19 to hold a block party; correct?

20 A Yes.

21 Q And John was the same jokester he always was;
22 correct?

23 A Correct, yes.

24 Q And you had some contact with Karen while you
25 were at the bar before you had to leave because of the

1 migraine; correct?

2 A Correct.

3 Q And she was just very bubbly that night;
4 correct?

5 A Correct.

6 Q That's just her personality as far as you
7 could see; correct?

8 A As far as I knew, yes.

9 Q You know, you didn't know her that well, but
10 that's how she always was; correct?

11 A Correct.

12 Q And you left the Waterfall at around 11:00
13 o'clock, your best memory?

14 A A little after 11:00.

15 Q And it was a particularly bad migraine that
16 night?

17 A Yes.

18 Q And the loud music didn't help you out at all?

19 A Not at all.

20 Q And you drove home?

21 A Yes.

22 Q Now, when you got home your son Colin was not
23 there; correct?

24 A Correct.

25 Q He was not out with you at the Waterfall?

1 A Correct.

2 Q He was out that night; correct?

3 A Yes.

4 Q And you knew that he stops by your sister-in-
5 law Nicole's house quite a bit; correct?

6 A Yes.

7 Q He's very close to Nicole and Brian's kids;
8 correct?

9 A Correct.

10 Q He's also very close to his aunt and uncle,
11 Brian Albert and Nicole Albert; correct?

12 A Correct.

13 Q So you would have gotten home maybe shortly
14 after 11:10 p.m., approximately?

15 A Around 11:00, yup. Around there.

16 Q And that was when you entered an empty house;
17 correct?

18 A My son (c) was home.

19 Q Oh, (c) was home?

20 A Yes.

21 Q But Colin was not?

22 A He was not.

23 Q And Colin did not come home at 11:30; correct?

24 A Correct.

25 Q He did not come home at 11:45; correct?

1 A Correct.

2 Q And when the clock turned midnight he still
3 wasn't home; correct?

4 A Correct.

5 Q Now, at some point your husband, Chris, came
6 home; correct?

7 A Yes.

8 Q You testified on direct examination that Chris
9 came home at 12:10 a.m. on January 29th?

10 A That's the time I believe he did, yes.

11 Q Okay. That 12:10 a.m. time, did you discuss
12 that precise time with anybody prior to taking the
13 stand yesterday?

14 A No.

15 Q Was that coordinated with anybody such that
16 your husband indicated the same time, 12:10 a.m.?

17 A No.

18 MR. YANNETTI: With the Court's permission,
19 I'd like to play the Waterfall video, I think it's
20 Exhibit 53, just that portion of the video.

21 THE COURT: Okay.

22 MR. YANNETTI: If I may just have a moment,
23 Your Honor?

24 THE COURT: Sure.

25 MR. YANNETTI: Your Honor, I'm going to allow

1 my colleague some time to find this and I'll move
2 on with my questioning. And if we could have the
3 lights on, please?

4 BY MR. YANNETTI:

5 Q Now, I believe you've testified that the
6 Waterfall is very close to D&E Pizza; correct?

7 A Correct.

8 Q But your house on Maple Street is about a half
9 a mile away from the Waterfall. Would you agree with
10 that?

11 A About that, yes. Maybe a little less, but
12 about that.

13 Q All right. Would you agree it's a, you know,
14 seven or eight-minute walk home from the Waterfall if
15 you're walking? And I realize you were driving. But
16 if somebody were walking, it would be about seven or
17 eight minutes?

18 A Maybe a minute or two less.

19 Q Okay. So you would say six or seven minutes
20 would be a better estimate to cover that half mile?

21 A It depends on how fast you walk, yes.

22 Q All right. And it was snowing that night;
23 correct?

24 A Correct.

25 Q The ground was a little bit slippery?

1 A Yes.

2 MR. YANNETTI: If I may just have a moment?

3 THE COURT: Yes.

4 MR. YANNETTI: If I could have the lights
5 dimmed again?

6 BY MR. YANNETTI:

7 Q This is the exhibit I'd like to show you,
8 ma'am.

9 MR. YANNETTI: And if you could pause for one
10 second?

11 (Whereupon, the video was played and paused.)

12 BY MR. YANNETTI:

13 Q Do you recognize what's depicted in that
14 video? Does that appear to be the Waterfall?

15 A Yes.

16 Q Okay. And do you see time of 12:13 a.m.?

17 A Yes.

18 MR. YANNETTI: Okay. You can run that,
19 Mr. Bates?

20 (Whereupon, the video was played.)

21 MR. YANNETTI: If you'd pause it there?

22 (Whereupon, the video was paused.)

23 BY MR. YANNETTI:

24 Q I'm going to direct you -- do you see where it
25 says CH3?

1 A Yes.

2 Q And you see the timestamp up at the top;
3 correct?

4 A Yes.

5 Q Between those two markers on the video you're
6 going to see somebody walking by. I'd ask you to pay
7 attention to the next, you know, six seconds or so.

8 (Whereupon, the video was played.)

9 MR. YANNETTI: Stop.

10 (Whereupon, the video was paused.)

11 BY MR. YANNETTI:

12 Q Did you recognize that person?

13 A Yes. I believe it's my husband.

14 MR. YANNETTI: If you could run that?

15 (Whereupon, the video was played.)

16 MR. YANNETTI: Stop.

17 (Whereupon, the video was played.)

18 BY MR. YANNETTI:

19 Q Would you agree with me that your husband left
20 the Waterfall at about 12:13 and 46 seconds?

21 A Well, yes. I mean, that's what it says on the
22 screen.

23 Q Okay. So it was closer to 2:14 than to 2:10;
24 would you agree with that?

25 A 12:14, you mean?

1 Q You know what, you're right. 12:14 than
2 12:10?

3 A Yes, that's what I'm seeing.

4 Q Thank you.

5 So if he's leaving at around 12:14 and by
6 your testimony it would have taken him six -- he was
7 walking home. You knew that; correct?

8 A Yes.

9 Q He didn't have a car that night?

10 A He did not.

11 Q And if it took him six or seven minutes to get
12 home -- and, by the way, let me strike that question.
13 You had said it takes six or seven minutes. Did you
14 factor in the fact of the weather that night for your
15 estimate of about a six or seven-minute walk?

16 MR. LALLY: Objection.

17 THE COURT: Can you answer that question? Is
18 that what you said?

19 A Yes. I didn't factor in the weather. I don't
20 know.

21 Q All right. So your testimony would be you
22 don't know if it would have taken him a little bit
23 longer or anybody a little bit longer --

24 A Anybody. Everyone walks at a different pace.

25 Q Right. But whatever pace they walk at, given

1 what you saw of the weather that night, is it your
2 testimony that maybe it would have taken a little bit
3 longer than the estimate because of the weather?

4 A I'd say it would have.

5 Q Okay. But, in any case, let's leave it at six
6 or seven minutes. That puts him, your husband, coming
7 home at around 12:20 or 12:21; correct?

8 A Correct.

9 Q All right. And that 12:10 estimate that you
10 had, you made that estimate before having the benefit
11 of the video; correct?

12 A Correct.

13 Q Now, where were you within the house when your
14 husband came home?

15 A In my room.

16 Q Bedroom?

17 A Upstairs in my bedroom.

18 Q And you share a bedroom with your husband?

19 A Yes.

20 Q And when was the first time that you saw him
21 within the house?

22 A He came up to the bedroom.

23 Q Okay. So you were in the bedroom and you see
24 him appear in the bedroom; correct?

25 A Correct.

1 Q Did you hear the door open way down on the
2 first floor?

3 A Yes.

4 Q Okay. And it would have taken maybe about a
5 minute to get upstairs? It wasn't very long?

6 A It wouldn't be very long, no.

7 Q Okay. And, when he got upstairs, you noticed
8 that he was in wet clothing; correct?

9 A Yes.

10 Q He appeared to be cold?

11 A Yes.

12 Q And he got undressed; correct?

13 A Yes.

14 Q Did he brush his teeth before bed?

15 A I think he got right into bed.

16 Q Okay. So you didn't see him brush his teeth
17 or wash up?

18 A No.

19 Q And were you in the bed when he came into the
20 bed to go to sleep?

21 A I was sitting up in bed, yes.

22 Q Were you reading or watching TV?

23 A I was just sitting up in bed, praying for my
24 headache to go away.

25 Q Oh, okay. So the migraine was still really

1 bothering you?

2 A Yes.

3 Q And you were suffering at that point?

4 A Suffering? I had a headache.

5 Q Well, yeah. But a migraine headache, I would
6 imagine it's --

7 A It was a headache, but I took medicine and I
8 was waiting for it --

9 Q Waiting for it to kick in?

10 A Yes.

11 Q Okay. And that's sort of what you were
12 concentrating on. It's probably kind of hard to read
13 or watch TV or concentrate on anything when you have a
14 migraine; right?

15 A Okay, yes.

16 Q Now, you would agree that your husband, Chris,
17 was asleep when Colin came home; correct?

18 A Correct.

19 Q And, as a mother, you couldn't have gone to
20 sleep until you knew your kids were home; correct?

21 A Correct.

22 Q And Colin was the remaining child who was out
23 there, which when he came home that would have given
24 you license to go to sleep?

25 A Yes.

1 Q Now, at the time that Colin came home, with
2 Chris sleeping, it's fair to say this was just an
3 ordinary weekend night; correct?

4 A How do you --

5 Q Well, in other words, you didn't know that
6 anything tragic had occurred or was alleged to have
7 occurred; correct?

8 A Correct.

9 Q So it wasn't like you were paying attention to
10 the clock at that point and recording your memories as
11 best you could because you knew you'd be testifying
12 later; correct?

13 A Correct.

14 Q Which also explains the 12:10 estimate; right?
15 I mean, you're being asked about, you know, times that
16 things occurred and it was just sort of an ordinary
17 day, right, so it's difficult to pinpoint times;
18 correct?

19 A Correct.

20 Q Okay. Now, directing your attention to the
21 next morning, you missed a phone call from your best
22 friend, Jennifer McCabe; correct?

23 A Correct.

24 Q And you believe that phone call, I think,
25 according to your memory yesterday, came in at

1 5:55 p.m., correct, I'm sorry, 5:55 a.m.; correct?

2 A Correct.

3 Q That was the time that you gave Mr. Lally when
4 he asked you a question on direct examination; correct?

5 A Correct.

6 Q And you were able to recall that time nearly
7 two years later; correct?

8 A Yes.

9 Q But regarding the 67 phone calls between you
10 and Courtney Proctor that happened after that, you're
11 not able to recall any of those; correct?

12 A I just don't remember them.

13 Q All right. In any case, January 29th was your
14 nephew Brian Albert, Jr.'s birthday; correct?

15 A Yes.

16 Q That's why you went to 34 Fairview at 8:30 in
17 the morning; correct?

18 A Yes.

19 Q And when you pulled into the driveway there
20 was nothing unusual to you; correct?

21 A Correct.

22 Q This was just your brother-in-law Brian and
23 your sister-in-law Nicole's house with snow around;
24 correct?

25 A Yes.

1 Q There were no police on scene?

2 A No.

3 Q There was no tent protecting the front lawn;
4 correct?

5 A Correct.

6 Q No crime scene tape stapled anywhere or taped
7 anywhere; correct?

8 A Correct.

9 Q Nobody appeared to be standing guard over the
10 front yard; correct?

11 A Correct.

12 Q You didn't see any shard of glass; right?

13 A No, I did not.

14 Q You didn't see 45 pieces of taillight strewn
15 about the lawn; correct?

16 A Correct.

17 Q In fact, you didn't see any pieces of
18 taillight; correct?

19 A I don't recall seeing anything.

20 Q And you didn't suspect that 34 Fairview was a
21 crime scene; correct?

22 MR. LALLY: Objection.

23 THE COURT: Sustained.

24 BY MR. YANNETTI:

25 Q There was nothing that prevented you from

1 walking all over that front lawn; correct?

2 A Correct.

3 Q It was still snowing out?

4 A Yes.

5 Q Brian Albert, when you approached the house,
6 he opened the door; correct?

7 A I approached the car, not the house.

8 Q Oh, okay. You approached -- whose car was it?

9 A My nephew Brian's.

10 Q Brian, Jr.'s car?

11 A Yes.

12 Q All right. And then Brian Albert opened the
13 door of the house?

14 A The side door of the home, yes.

15 MR. YANNETTI: Can I have Exhibit 8, please,
16 with the Court's permission?

17 THE COURT: Yes.

18 (Whereupon, the exhibit was displayed.)

19 MR. YANNETTI: Can we zoom in just a little
20 bit? That's good.

21 I am so bad at this. Oh, thank you.

22 BY MR. YANNETTI:

23 Q That that I'm highlighting now is the front
24 door to the house; correct?

25 A Yes.

1 Q And if we move along Exhibit 8 to the right,
2 is that the side door?

3 A Yes.

4 Q And that's the door that Brian Albert appeared
5 from?

6 A Yes.

7 Q And you were able to see him from the outside
8 of the house; correct?

9 A Yes.

10 Q And you were over to this area?

11 A Yes.

12 Q Do you recall, is it one of those two cars
13 that's in Exhibit 8 that you approached with the
14 Dunkin' Donuts?

15 A I can't make out what the cars are.

16 Q Okay. But it was either one of those two cars
17 or a car that was parked in one of those two places?

18 A Yes.

19 Q All right. And then you went -- did you go in
20 that side door to go into the house?

21 A Yes.

22 Q Fair to say that family has lived there for
23 quite a while; correct?

24 A Yes.

25 Q You knew that prior to Brian Albert and --

1 MR. YANNETTI: Oh, I'm sorry. It's really bad
2 form to block the jury. I'm so sorry.

3 BY MR. YANNETTI:

4 Q The door that is the front door, you know,
5 being familiar with that house for a long time, you've
6 gone in that front door before; correct?

7 A Yes.

8 Q And you know that when you go in the front
9 door of that house you come into a little foyer area;
10 correct?

11 A Correct.

12 Q And then almost within arm's distance to the
13 left is the door to the basement; correct?

14 A Walking in the front door, arm's distance to
15 the left?

16 Q Yes. In other words, you walk into the house
17 --

18 A Yup.

19 Q -- and then the door to the basement, going
20 down to the basement, is right there on the left;
21 correct?

22 A That's incorrect. To the left is the library.

23 Q All right. Where is the door to the basement?

24 A You walk in the front door, you step to the
25 right, walk a few steps towards the kitchen, and the

1 basement door is on the left before you enter the
2 kitchen.

3 Q All right. But the kitchen is off to the
4 left; correct?

5 A No. When you walk in the front door, the
6 library is on the left. There's another room on the
7 left.

8 Q Okay.

9 A So you walk in. You immediately see a
10 staircase in front of you. And to the left is the
11 library.

12 Q Right.

13 A If you go right --

14 Q I'm sorry. Go ahead.

15 A If you go to the right, you can go into the
16 part of the kitchen where the kitchen table is or you
17 can not go to the right and you can walk straight and
18 as you're walking there's a door on the left and that's
19 where the basement door is.

20 Q Okay. So I think we're getting to what I was
21 getting at. If you walk straight ahead, there's a door
22 to the left that goes down to the basement; correct?

23 A Correct, yes.

24 MR. YANNETTI: We can have the lights on.

25 BY MR. YANNETTI:

1 Q And, when you were walking toward that side
2 door, you didn't see any emergency or police vehicles
3 outside; correct?

4 A No, I did not.

5 Q And you didn't see any first responders other
6 than Brian Albert; correct?

7 A Correct.

8 Q There were no lights flashing outside the
9 house; correct?

10 A Correct.

11 Q And inside you saw Nicole Albert?

12 A Yes.

13 Q Brian Albert?

14 A Yes.

15 Q Jennifer McCabe?

16 A Yes.

17 Q Matt McCabe?

18 A Yes.

19 Q And Brian Higgins; correct?

20 A Yes.

21 Q How long did you spend at the house that
22 morning?

23 A I don't remember exactly. Maybe a half hour,
24 45 minutes. I don't remember exactly.

25 Q And the seven of you were discussing what had

1 happened; correct?

2 A Yes.

3 Q At some point it was decided that Jennifer
4 McCabe should contact Michael Lank of the Canton
5 Police; correct?

6 MR. LALLY: Objection.

7 THE COURT: I'll let -- if this witness knows
8 independently.

9 A Can you repeat that one for me?

10 Q Sure. At some point it was decided among the
11 seven of you that Jennifer McCabe should contact
12 Michael Lank of the Canton Police Department?

13 A I don't remember who exactly, if Jennifer
14 decided. I don't remember exactly.

15 Q Well, you knew Michael Lank; correct?

16 A Yes.

17 Q And at 8:53 a.m. you sent to Jennifer McCabe
18 Michael Lank's personal cell phone number; correct?

19 A Correct.

20 Q And did you then see Jennifer McCabe delete
21 that text message from you?

22 MR. LALLY: Objection.

23 THE COURT: I'll sustain that.

24 BY MR. YANNETTI:

25 Q You were contacted by the Massachusetts State

1 Police this year about your phone; correct?

2 A Correct.

3 Q They left you a voicemail on March 21st of
4 2024?

5 A The state police?

6 Q Yes.

7 A About my telephone?

8 Q Well, they left you voicemail on March 21st of
9 2024. You had contact with the state police this year?

10 A Yes.

11 Q And they left you a second voicemail on
12 March 25 and then called you again on March 28th?

13 A Yes.

14 Q You told them that you were sick and you would
15 speak to them on April 1st; correct?

16 A Correct.

17 Q And then the state police called you on
18 April 1st but you did not pick up. Do you recall that?

19 A I do not.

20 Q They called you again that same day and you
21 didn't respond; correct?

22 A I don't recall.

23 Q But you did learn that they had called your
24 husband on April 1st looking for you; correct?

25 A I don't recall.

1 Q All right. After speaking with your husband
2 you texted the Massachusetts State Police on April 1st;
3 correct?

4 A I think around that. I don't know the exact
5 date.

6 Q All right. And you finally met with the
7 Massachusetts State Police on April 3rd of 2024;
8 correct?

9 A I would assume. I don't know the exact date,
10 but yes.

11 Q And during that meeting the state police
12 looked through your phone for a contact that you would
13 have had with Michael Proctor; correct?

14 A Correct.

15 Q Did they seize your phone?

16 A No, they did not.

17 Q Did they tell you that they had a search
18 warrant for your phone?

19 A No, they did not.

20 Q Did they take it back, saying that they had to
21 give it to some experts to do an extraction?

22 MR. LALLY: Objection.

23 THE COURT: Sustained.

24 BY MR. YANNETTI:

25 Q They just looked through it after you handed

1 it to them; correct?

2 A Correct.

3 Q Then they gave it back?

4 A Yes.

5 Q Now, with regard to your contact with Karen on
6 January 28th, it was clear to you that Karen did not
7 appear to be under the influence; correct?

8 A Correct.

9 Q You didn't see her stumbling; correct?

10 A Correct.

11 Q You didn't see her swaying?

12 A Correct.

13 Q She was not unbalanced?

14 A No.

15 Q She was not slurring her words?

16 A No.

17 Q She was not talking gibberish?

18 A No.

19 Q She was engaging in normal conversation?

20 A Yes.

21 Q And she held a conversation perfectly fine?

22 A Yes.

23 Q She appeared to be under control; correct?

24 A Yes.

25 Q She was affectionate with John that night?

1 MR. LALLY: Objection.

2 THE COURT: No. I'll allow it.

3 A I didn't come in contact with them like that.

4 BY MR. YANNETTI:

5 Q Well, the two of them certainly were not
6 arguing?

7 A No, not that I saw.

8 Q You didn't see any tension between them;
9 correct?

10 A No.

11 Q And, I mean, given your, you know, family's
12 connection to law enforcement, you would not knowingly
13 let someone drive a car if they were under the
14 influence; correct?

15 MR. LALLY: Objection.

16 THE COURT: Sustained.

17 BY MR. YANNETTI:

18 Q Everyone appeared to be having a good time
19 that night; correct?

20 A Yes.

21 Q And that included John and Karen, from what
22 you could see; correct?

23 A For the 10 minutes, 10, 15 minutes I was
24 there, yes.

25 Q Okay. Now, after you left the Waterfall, it's

1 fair to say that you didn't know precisely where your
2 son Colin was that night; correct?

3 A I knew where he was.

4 Q Where was he?

5 A He was at his friend, Michael Leonetti's. He
6 left Michael Leonetti's to stop to say happy birthday
7 to my nephew Brian at 34 Fairview Road.

8 Q Okay. And you learned that from him; correct?

9 A Yes.

10 Q So you had learned that Colin was at
11 34 Fairview on January 29th of 2022; correct?

12 A January 28th.

13 Q So is it your testimony that you know that
14 Colin left on Friday night as opposed to after midnight
15 on January 29th?

16 A I don't understand what you're asking?

17 Q Well, what just occurred is I asked you
18 whether you knew that your son Colin was at your
19 sister-in-law Nicole's and your brother-in-law
20 Brian Albert's house on January 29th and you just
21 corrected --

22 A I'm sorry. It was after. I'm sorry. It was
23 after midnight. So I got confused.

24 Q Not a problem. So the answer to my question
25 is you learned that he was there on January 29th;

1 correct?

2 A Yes, after midnight.

3 Q And you now know that that is the same house
4 outside which John O'Keefe was found dead that morning;
5 correct?

6 A Yes, I do.

7 Q And one last question. You were interviewed
8 by Trooper Proctor and it's fair to say you never told
9 him that Colin was there that night; correct?

10 A I don't recall my interview.

11 MR. YANNETTI: I have no further questions.

12 Thank you.

13 THE COURT: All right. Mr. Lally?

14 MR. LALLY: Just briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. LALLY:

17 Q Good morning, Ms. Albert.

18 A Good morning.

19 Q Now, with reference to you were asked some
20 questions about 67 calls over a period from January,
21 sorry, February to September; correct?

22 A Correct.

23 Q And that's about seven months; is that right?

24 A Yes.

25 Q And roughly about 210 days or so?

1 A Yes.

2 Q Do you have other friends besides Ms. Proctor?

3 A Yes.

4 Q And versus some of your other friends, as far
5 as those phone calls 67 times over 2010 days, is that
6 more so, less so, or on average with --

7 A Less so.

8 Q Less.

9 And at no point in time did you speak to
10 Ms. Proctor that you recall about this case or talk to
11 Trooper Proctor outside of that interview?

12 A Correct.

13 Q And the interview that you had with Trooper
14 Proctor, there was another trooper present; correct?

15 A Yes.

16 Q And you were just asked some questions about
17 meeting with some other troopers this year in 2024;
18 correct?

19 A Correct.

20 Q And fair to say none of those troopers was
21 Trooper Proctor; correct?

22 A Correct.

23 Q And also wasn't the trooper that was with
24 Trooper Proctor when you spoke to him?

25 A Correct.

1 Q And they asked you questions. You had at
2 least two interviews with them; is that correct?

3 A Correct.

4 Q And you voluntarily went to those interviews?

5 A Yes.

6 Q You answered their questions?

7 A Yes.

8 Q They asked for your phone?

9 A Yes. When I was sitting there they looked at
10 my phone, yes.

11 Q So they asked for your phone and you provided
12 your phone?

13 A Yes.

14 Q Voluntarily, nobody threatened you with a
15 search warrant or anything like that?

16 A No.

17 Q You were asked some questions about timing.
18 And I promise there's no math that I'm asking in this.
19 But you've had to walk outside when it's cold outside;
20 correct?

21 A Yes.

22 Q Okay. Do you tend to walk faster or slower
23 when it's cold outside?

24 A Faster, me personally.

25 Q When you went over to your in-law's house on

1 the morning of January 29th to drop off donuts for your
2 nephew, you weren't expecting to go inside; correct?

3 A Correct.

4 Q You weren't expecting to be standing around
5 talking to people about a friend of yours potentially
6 having died at that point on the front lawn?

7 A No.

8 MR. LALLY: Nothing further, Your Honor.

9 MR. YANNETTI: May we approach?

10 THE COURT: Okay.

11 Jurors, feel free to stand up and stretch if
12 you'd like.

13 (Whereupon, there was a sidebar conference as
14 follows:)

15 MR. YANNETTI: I didn't want to do this
16 without the Court's permission. I don't know that
17 Mr. Lally has opened the door to this but I
18 neglected to ask this witness about the text
19 messages that they exchanged. It may be just a
20 couple of questions just to --

21 THE COURT: Who is "they"?

22 MR. YANNETTI: I'm sorry. This witness and
23 Courtney Proctor. She had testified that rarely
24 did they call. It was mainly with text messages.
25 I just wanted to highlight in addition to the 67

1 calls, there were numerous text messages. I
2 wouldn't go deeply into it. But, again, I realize
3 he is not opening the door. I'd have to get the
4 Court's permission to do that on recross.

5 THE COURT: What's the Commonwealth's
6 position?

7 MR. LALLY: It's outside the scope.

8 THE COURT: So is that an objection?

9 MR. LALLY: Yes.

10 THE COURT: I'm going to sustain the
11 objection.

12 MR. LALLY: Thank you.

13 THE COURT: So while you're here, a couple of
14 things. In an effort to move this case along, with
15 the next witness, not everybody needs to identify
16 the inside of the Waterfall. They can certainly
17 identify where they sat or whatever you want. Just
18 the basics.

19 MR. LALLY: I'm done with the video from the
20 Waterfall until --

21 THE COURT: Okay. But the repetitive nature,
22 like it was with the storm. So if we can try and
23 avoid that.

24 MR. LALLY: Uh-huh.

25 THE COURT: And maybe it's just a personal pet

1 peeve, but --

2 MR. LALLY: What am I doing?

3 THE COURT: The first question, we've never
4 met. Sometimes it's two questions. No, it's not
5 just that I don't like it. You're not testifying.
6 And I would have let it go, but Mr. Jackson picked
7 up on it and started doing it a couple of times.
8 If it becomes crucial to it, ask for permission by
9 coming to sidebar.

10 MR. LALLY: Okay. That's fine.

11 THE COURT: And sometimes it might. I've had
12 occasions where -- one occasion where I had to do
13 it and I never did it.

14 MR. LALLY: Gotcha.

15 THE COURT: But in an effort to sort of move
16 things along.

17 I think we have this issue now before your
18 next witness?

19 MR. LALLY: Yes.

20 THE COURT: I was told Mr. Bradl was here, and
21 then I received something saying Mr. Bradl had no
22 idea about this motion. I don't know if he's
23 even planning on being here.

24 MR. YANNETTI: I texted him when I saw him in
25 -- I was actually in the process of texting him to

1 notify him. I didn't know if he knew or not.

2 THE COURT: I saw him in the hall when I came
3 in.

4 MR. YANNETTI: I think he knows now. Yeah.

5 THE COURT: So that's what I called Mr. Rose
6 for, to order bagels and coffee for the jurors in
7 case this takes a while. Let me send them out, and
8 then we'll figure out what we are going to do.

9 (Whereupon, the sidebar conference concluded.)

10 THE COURT: Jurors, we're going to take sort
11 of an early morning recess.

12 You're actually complete. Your testimony,
13 Ms. Albert, is complete.

14 THE WITNESS: Thank you.

15 THE COURT: So let's let the jurors go out
16 first.

17 Because we're doing something that may take a
18 little while, we got you coffee and bagels. It
19 will be a little bit longer break for you. Okay.

20 (Whereupon, the jury was escorted from the
21 courtroom and the witness is excused.)

22 (Whereupon, there was a sidebar conference as
23 follows:)

24 THE COURT: So FTR may be picking up your
25 conversations.

1 MR. YANNETTI: Oh, sorry.

2 THE COURT: All right. Can we call Mr. Bradl
3 in?

4 MR. YANNETTI: Are we doing this at sidebar?

5 THE COURT: I'll have him come to sidebar to
6 see how we all want to do this. Is he out there?
7 Is Tim Bradl out there?

8 THE COURT OFFICER: He's on his way, Your
9 Honor.

10 THE COURT: Mr. Yannetti, you said you texted
11 him about this?

12 MR. YANNETTI: I did, yes. Here he is.

13 THE COURT OFFICER: Quiet down, please. Court
14 is still in session.

15 MR. BRADL: Good morning, Your Honor.

16 THE COURT: Hi, Mr. Bradl. Why don't you come
17 on over. I'm actually doing this -- this is a
18 microphone. So if you would come over?

19 MR. BRADL: Okay.

20 THE COURT: So I have Commonwealth's motion to
21 exclude Mr. Kearney, who I don't know if you're
22 going to represent him on this motion, but I know
23 you represent him in a pending case in this
24 courthouse. So the Commonwealth's motion to
25 exclude him in connection with this case from the

1 proceedings regarding certain witnesses.

2 MR. BRADL: Okay. So this is news to me, Your
3 Honor.

4 THE COURT: Okay.

5 MR. BRADL: And I don't have service of it. I
6 would --

7 THE COURT: Okay. So --

8 MR. BRADL: I'm here on Mr. Curry, not
9 on Mr. Kearney.

10 THE COURT: Nothing can happen on Mr. Curry
11 because --

12 MR. BRADL: No. Of course. I figured I was
13 just going to get a date and be out of here. So
14 this is all news to me.

15 THE COURT: Okay. Have you seen the motion,
16 because Mr. Yannetti said he texted you.

17 MR. BRADL: He texted me that there was a
18 motion but not --

19 THE COURT: Okay.

20 MR. BRADL: But I don't have the motion. I
21 just looked on Mass Courts, and it's not in this
22 court. So I don't know anything about this.

23 THE COURT: So we'll give you a copy of the
24 motion.

25 MR. BRADL: Okay.

1 THE COURT: We'll give you some time to talk
2 to Mr. Kearney. There is no case on this.

3 MR. BRADL: Okay.

4 THE COURT: It's sort of an ancillary matter
5 in the criminal case of Ms. Read.

6 MR. BRADL: Yes.

7 THE COURT: And it's a motion that I'd like to
8 have a hearing on it in about 15, 20 minutes.
9 Okay?

10 MR. BRADL: Okay.

11 THE COURT: So I'll give you that time to
12 speak to Mr. Kearney, take a look at the motion.

13 MR. BRADL: Okay.

14 THE COURT: I don't know that the defendants
15 have any -- they told me earlier they don't have a
16 position on the motion.

17 MR. BRADL: Okay.

18 THE COURT: Logistically, I don't know how to
19 set up -- do you want to be present or do you want
20 us to separate you from counsel table? I just --

21 MR. JACKSON: That's a great point. That's a
22 great point, Your Honor.

23 THE COURT: That's why I called Mr. Bradl
24 while I had you all here.

25 MR. JACKSON: For this purpose, I don't think

1 that it involves Ms. Read's interests or taken a
2 position on it legally or otherwise. So I would
3 ask that she sort of be separated away from it. I
4 don't even like the optic.

5 THE COURT: Well, that's why I asked.

6 MR. JACKSON: Yeah. I think that's a great
7 idea.

8 THE COURT: All right. So we will excuse the
9 parties on the Read matter. Okay?

10 MR. JACKSON: Okay.

11 MR. YANNETTI: Okay.

12 THE COURT: And I'll give you 10, 15 minutes.
13 We do have a jury out, Mr. Bradl. And so --

14 MR. BRADL: I may have a procedural objection,
15 Your Honor, just so you know.

16 THE COURT: Okay. Yes. You can. This is a
17 motion that's filed in a criminal case that I have
18 to act on.

19 MR. BRADL: Sure. I appreciate it.

20 THE COURT: And just so you know, Mr. Lally
21 said that our next witness, though not a named
22 witness on this, also -- Mr. Lally, has the
23 witness, herself, expressed concern?

24 MR. LALLY: Yes.

25 THE COURT: Okay. And maybe you want to talk

1 to the Commonwealth about this.

2 THE COURT REPORTER: And, Your Honor, for the
3 record, this whole thing is sealed, correct?

4 THE COURT: Yes. And I said that to Margaret.
5 I should have said it to you, as well. Yes. And
6 the hearing will be sealed.

7 MR. LALLY: Thank you.

8 THE COURT: We'll do it in open court somehow,
9 I guess, or maybe not, but we'll deal with this.
10 Okay?

11 All right. So I'll see you in about 10, 15
12 minutes, Mr. Bradl.

13 MR. BRADL: Very good.

14 THE COURT: And the Commonwealth.

15 MR. LALLY: Thank you.

16 THE COURT: And I know you have all of your
17 paperwork on the table. You're free to leave it.
18 Nobody will see it.

19 MR. JACKSON: That's fine. What time would
20 you like us back?

21 THE COURT: So the jury just went out 10
22 minutes ago. Let's say 10:45.

23 MR. JACKSON: Okay. That's fine.

24 MR. LALLY: Thank you.

25 MR. BRADL: Thank you.

1 THE COURT: Okay.

2 (Whereupon, the sidebar conference concluded and a
3 recess was taken.)

4 (Court resumes.)

5 (Defendant present. Jury not present.)

6 (Whereupon, there was a hearing with Attorney
7 Lally, Attorney McLaughlin and Attorney Bradl
8 present and is under separate cover, prepared by
9 Nancy King.)

10 (Whereupon, there was a recess.)

11 (Court resumes at 11:11 a.m.)

12 (Defendant present. Jury present.)

13 THE COURT: All right. Jurors, once again
14 thank you very much for your patience.

15 Your next witness, Mr. Lally?

16 MR. LALLY: Yes, Your Honor. The Commonwealth
17 would call Ms. Nicole Albert to the stand.

18 Whereupon,

19 NICOLE ALBERT

20 having been first duly sworn, was examined and
21 testified as follows:

22 THE COURT: All right, Mr. Lally, whenever
23 you're ready.

24 MR. LALLY: Thank you, Your Honor.

25 DIRECT EXAMINATION

1 BY MR. LALLY:

2 Q Good morning, ma'am.

3 A Good morning.

4 Q Could you please state your name and spell
5 your last name for the jury?

6 A My name is Nicole Albert, A-L-B-E-R-T.

7 Q And where do you live?

8 A Norwood.

9 Q And about how long have you lived in Norwood?

10 A About a year.

11 Q And prior to moving to Norwood, where did you
12 live prior to that?

13 A Canton.

14 Q And how long had you lived in Canton?

15 A My whole life.

16 Q Now, the specific address, where did you live
17 in Canton prior to your move to Norwood?

18 A 34 Fairview Road.

19 Q And how long did you live at that house?

20 A About 12 years.

21 Q And are you married, ma'am?

22 A Uh-hmm. Yes.

23 Q What's your husband's name?

24 A Brian Albert.

25 Q And does he work?

1 A He's retired from the Boston Police.

2 Q And about how long was he an officer with the
3 Boston Police?

4 A About 30 years.

5 Q And do you have children?

6 A Yes. We have five.

7 Q And how old are your five children?

8 A My oldest daughter is 28, and then I have a
9 son who's 25. I have another son who's actually 23
10 today. And then I have twins, a boy and a girl, who
11 are 20.

12 Q And your oldest daughter, what's her name?

13 A Caitlin.

14 Q And your oldest son, what is his name?

15 A Brian, Jr.

16 Q And Brian, Jr., does he live with you
17 currently?

18 A Yes.

19 MR. LALLY: I'm sorry. I'm just going to wait
20 for the siren to go by.

21 BY MR. LALLY:

22 Q Your other children, do they live with you as
23 well?

24 A My oldest daughter lives with her boyfriend in
25 Easton, and my son Brendon lives with us. He's just

1 finishing up college. He's graduating this month from
2 college and he's back with us. My twin daughter, she
3 goes to college, so she's home now for the summer, but
4 she has an apartment in Bridgewater. And then the twin
5 boy is in the military.

6 Q And which branch is he in?

7 A The Marine Corp.

8 Q Now, if I could turn your attention to
9 January 28th, 2022, do you recall that day?

10 A Uh-hmm.

11 Q And do you recall what day of the week that
12 was?

13 A A Friday.

14 Q And at the time of January 28th of 2022 did
15 you work?

16 A Yes. I've been a part-time lunch lady for
17 about nine years.

18 Q And you've since retired; is that correct?

19 A I'm sorry?

20 Q You've since retired from that?

21 A I haven't retired. I just didn't go back this
22 past year.

23 Q And around that date of -- so January 28th of
24 2022, what, if any, significance was the next day of
25 January 29th?

1 A January 29th was my son Brian, Jr.'s 23rd
2 birthday.

3 Q And over the course of that week, sort of
4 leading up into the weekend, what, if any, plans did
5 you make with reference to your son and his birthday?

6 A He had mentioned he was going to get together
7 with some friends on Saturday night, the 29th, for his
8 birthday and I had said, okay, well, maybe Friday
9 night, if anyone's around, any of our aunts or uncles
10 or anyone, maybe we'll take you out, you know, just
11 local for some apps and drinks or something.

12 Q Okay. And coming up to that day of Friday,
13 the 28th, what, if anything, sort of changed in
14 reference to those plans?

15 A Well, the forecast was saying a big snowstorm
16 was coming in and it looked like it was going to be
17 late Friday into all day Saturday, so I had said to my
18 son, well, obviously, it doesn't seem like anyone will
19 be able to go out on Saturday night, why don't you just
20 do something with your friends Friday night.

21 Q And had you at that time already made some
22 plans with friends and relatives in regard to going out
23 Friday?

24 A Yeah. I had just mentioned to my daughter
25 Caitlin and my sister-in-law Julie and just had

1 mentioned it to them about possibly getting together
2 Friday.

3 Q And, just to be clear for the record, when you
4 say your sister-in-law Julie, how is she sort of
5 related to you?

6 A She's my husband's brother Chris's wife?

7 Q And your husband has a number of siblings;
8 correct?

9 A Yes. He's the oldest of seven.

10 Q And yourself and Julie Albert, you guys are
11 friends?

12 A Yes. We're very close.

13 Q And, so, also just one last question sort of
14 leading up through the course of that week. Where did
15 your husband, Brian, go?

16 A Sort of last minute, I believe it was Thursday
17 of that week, he went to New York for a funeral.

18 Q And do you know who the funeral was in regard
19 to?

20 A It was for a New York Police officer who had
21 just been killed in the line of duty.

22 Q And do you recall how he got there, as far as
23 how he went from Canton to New York?

24 A I believe he may have flown Thursday to
25 New York and then the plan was to fly back Saturday,

1 but that changed with the weather and he ended up --
2 they didn't want to get stuck there, so after the
3 funeral Friday morning they drove home. A friend of
4 his had driven, so he got a ride back with them on
5 Friday.

6 Q And only if you know, but as far as that
7 friend that he drove back with on Friday, do you know
8 who that was?

9 A The friend who I believe had the truck there
10 and drove is Brian Higgins.

11 Q And is that someone, Mr. Higgins, that you
12 were familiar with prior to that date in January?

13 A Yes. He was a friend of my husband's.

14 Q Now, on that evening of the 28th, can you
15 explain to the jury sort of how it was that you --
16 where did you decide to go with your daughter and your
17 sister-in-law, Julie?

18 A We just decided to go to Waterfall, a local
19 place, you know, five, ten minutes down the road from
20 our house. My sister-in-law, Julie, picked me up at my
21 house maybe 7:30, quarter of 8:00, and we went to the
22 Waterfall. And I believe my daughter and her
23 boyfriend, Tristin, were already inside at a table.

24 Q And, when your sister (sic), Julie, came to
25 pick you up at the house, in addition to yourself and

1 your son, Brian, Jr., who, if anyone else -- were any
2 of his friends there at that time?

3 A I believe two girlfriends may have already had
4 come and they were just sitting in the kitchen when I
5 left.

6 Q So you go out to the Waterfall. When you get
7 to the Waterfall, where within the establishment did
8 you go?

9 A We came in, walked in. I believe to the left
10 there was just some small tables. And I think Caitlin
11 and Tristin were already sitting there, so we sat down
12 at the table and we ordered food and just hung out for
13 a little bit and had food and some drinks.

14 Q And, as far as drinks were concerned, do you
15 recall sort of what you were drinking that night?

16 A I was probably drinking White Claw.

17 Q Now, later on in the evening was there any
18 sort of live entertainment there?

19 A Yes. After we ate my daughter's boyfriend,
20 Tristin, left shortly after because he was going to be
21 going out shoveling, working with a plow guy. So he
22 planned to go home and just take a nap because he was
23 going to have to get up like in the middle of the night
24 to go out and do that. So he had left, so it was just
25 me, Julie and Caitlin. And at one point the waitress

1 had said, oh, a band is going to be setting up where
2 you're sitting, can I move you. So she just kind of
3 moved us over to like a high-top table.

4 Q And then after you were moved over to the
5 high-top table who, if anyone else, came in to join
6 your group?

7 A Shortly after I believe my sister, Jennifer,
8 and her husband, Matt, came in. I had texted her just
9 saying I was there, if she was interested to come by.
10 I think she said she was somewhere else, did I want to
11 come there. And I said, well, no, I'm already
12 situated, a band is going to play, I'm just going to
13 stay here. So she said, okay, maybe we'll come there.
14 So maybe 9:00-ish she came in with another couple. I
15 believe they had been at a basketball game, their
16 daughter's basketball game. So she came in with them.

17 Q And, again, just to be clear, when you say
18 your sister, Jen, and her husband, Matt, what is their
19 last name?

20 A McCabe.

21 Q And she's your younger sister; is that
22 correct?

23 A Yes.

24 Q Now, as far as after they came in, who, if
25 anyone else, sort of came in and joined your group?

1 A Shortly after that I believe Julie's husband,
2 Chris, came in. He worked up the street at his pizza
3 shop. So I believe shortly after 9:00-9:30 he came
4 down, he came in. And then in the meantime my husband
5 was, you know, getting close to being back to the area
6 from driving back from New York, so I had texted him
7 and said, hey, me and Katie and whoever else are here,
8 if you want to come by. And he was like, oh, I'm kind
9 of tired, it's been a long day. And I just pushed him
10 a little, oh, Katie's here, you know, just come, she
11 wants to see you. So he's like, all right, maybe I'll
12 pop in. So I believe after -- so it was Jen and Matt
13 and the other couple. And then Chris came in. Then I
14 believe maybe around 10:00 Brian came in.

15 Q And after your husband, Brian, came in, was
16 there anybody else that came in and joined your group
17 after?

18 A Shortly after, maybe 10:30, his friend
19 Brian Higgins had come in.

20 Q So your husband, Brian, and Brian Higgins came
21 in separately about a half hour apart?

22 A I think so, yes.

23 Q Okay. And following that who, if anyone else,
24 came into the establishment and sort of joined your
25 group at the high-top table?

1 A A little bit later, I think approximately at
2 11:00, John walked in with his girlfriend.

3 Q And, when you say "John," who is John?

4 A John O'Keefe.

5 Q And how did you -- or did you know
6 John O'Keefe prior to that night?

7 A I didn't know him that well. I think I had
8 only met him once, maybe twice through my sister, brief
9 interaction. I think when he first walked in,
10 actually, I didn't recognize him. I think I said to
11 someone, oh, who's that, because they were kind of
12 walking towards our table, and they said, oh, you know,
13 that's John O'Keefe. I said oh. So they came in and
14 they just kind of went to the end of the table where
15 like my sister, Jennifer, and Matt and Chris and Julie
16 were because they like knew them. You know, I had
17 never met Karen and I had only met John once or twice.
18 So they kind of just went to the other end of the table
19 where Jen and Matt were, who they know, and Chris and
20 Julie, who John had been neighbors with for a couple of
21 years. So they were all just kind of at that end
22 talking.

23 Q And it's probably pretty well understood, but
24 just to be clear, as far as the sister that you knew of
25 John through, that was your sister that was there,

1 Jennifer McCabe?

2 A Yes, Jennifer.

3 Q Okay. And you referenced his girlfriend. Had
4 you ever met his girlfriend before that night?

5 A No.

6 Q Had you ever -- so you had never met
7 Karen Read prior to that night as far as you recall?

8 A Nope.

9 Q And at any point in time did you have any
10 interaction or what, if any, interaction did you have
11 with either Mr. O'Keefe or Ms. Read?

12 A At one point John walked, you know, towards me
13 and my sister, my daughter at the table and said, hey,
14 I'm going up to the bar, do you guys need a drink or
15 anything, and we said, no, thank you. I think he then
16 kind of stopped and spoke with my husband for a minute,
17 probably was asking him the same thing. Then John went
18 back up to the bar and then he went back down to, you
19 know, where he had been standing. And that was the
20 only interaction I had with him.

21 Q And, as far as your understanding or your
22 knowledge of Mr. O'Keefe, did you know what he did for
23 a living?

24 A Yes.

25 Q And what did he do?

1 A I knew he was a Boston policeman.

2 Q Okay. And was he somebody, if you know, that
3 worked with your husband?

4 A No, I don't believe he ever worked with my
5 husband. I don't believe they ever crossed paths at
6 work. I think they were in different areas of, you
7 know, the job.

8 Q Fair to say the Boston Police Department is a
9 relatively large department; correct?

10 A Yeah. It's like 3,000.

11 Q Now, with reference to Ms. Read, what, if any,
12 interaction did you have with her that night?

13 A I had none. I don't believe we spoke or we
14 were introduced or anything. I don't think we spoke at
15 all.

16 Q Now, turning back to Mr. O'Keefe just for a
17 second. If you recall, what, if anything, do you
18 recall him to be wearing as far as clothing was
19 concerned during your interaction with him?

20 A I believe he had a hat on, some sort of
21 sweatshirt, jeans, and sneakers.

22 Q At any point in time that you saw him or while
23 he was talking to you did you see any sort of like
24 winter jacket or big coat or anything like that?

25 A No.

1 Q And, as far as his clothing was concerned, did
2 you observe it to have any sort of tears in it or any
3 dishevelment, anything like that?

4 A No.

5 Q And, as far as his face was concerned, any
6 sort of outward part of his body, did you observe -- or
7 what, if anything, did you observe with regard to
8 injuries on him or anything like that?

9 A Nothing. Nothing like that.

10 Q Now, as far as your home was concerned, was
11 that somewhere that either Mr. O'Keefe or Ms. Read had
12 ever been to before?

13 A No.

14 Q And over the course of the evening what, if
15 any, discussion was there that you heard or were a part
16 of in regard to sort of what was going to do or where
17 to go after leaving the Waterfall?

18 A Well, after the band wrapped up I was getting
19 ready to leave and I just kind of leaned over to my
20 sister, Jennifer, and said, hey, you know, Brian, Jr.
21 is at the house, I think he just has two friends there,
22 he's going to be turning 23 at midnight, if on your way
23 home you want to just swing by and say happy birthday,
24 you know, if you want to do that, come by and do that.
25 She was like okay, you know. And then I was just kind

1 of gathering up my stuff and I got ready to leave. It
2 may have been mentioned at the table, but I had no
3 idea, you know, if anyone else was interested in doing
4 that or wanted to do it. I had just said it to my
5 sister.

6 Q And if anybody else had wanted to join or come
7 along, would that have been an issue?

8 A Oh, no. I would have had no problem if anyone
9 sitting with us had come.

10 Q But, as far as you knew, you just communicated
11 that to your sister, Jennifer, and whatever happened
12 after that happened after that?

13 A Yes.

14 Q Okay. And, when you say sort of the band was
15 wrapping up, the bar was sort of winding down; is that
16 correct?

17 A Yes.

18 Q About what time was that?

19 A Like 12:45.

20 Q And about what time was it, if you know?
21 About what time was it that you left the bar?

22 A A little before 12:00. 12:00-ish.

23 Q And who, if anyone, left with you?

24 A It was me; my daughter, Caitlin; and my
25 husband.

1 Q And how did you get -- how did you get from
2 the Waterfall back to your house on Fairview?

3 A My husband drove the three of us back to
4 Fairview Ave.

5 Q And, when you came outside of the Waterfall
6 and were sort of, you know, getting in your car and
7 about to drive home, what, if anything, did you observe
8 as far as the weather or what was going on at that
9 point?

10 A It was just starting to snow a little, nothing
11 major. Just a little snowfall started coming down.

12 Q You could still sort of see the street and the
13 blacktop?

14 A Yeah.

15 Q And, again, about how long a car ride is that
16 generally speaking from the Waterfall to your house on
17 Fairview?

18 A Five minutes, seven minutes.

19 Q And as -- when you arrived at Fairview, who,
20 if anyone, was there when you got there?

21 A When we arrived and I came in, my son was
22 sitting there with his two friends and my nephew Colin,
23 who is Julie and Chris's son. He was there. I kind of
24 bumped into him when I walked in. I didn't realize he
25 was there. I said, oh, hey, what are you doing here.

1 He said, oh, I just stopped by to see Brian, but I'm
2 about to leave, my ride is about to be here. I said,
3 oh, okay.

4 Q And let me back up just for a minute. So when
5 you arrive there, your husband, Brian, is driving,
6 where does he park in relation to the house?

7 A We pulled into the driveway.

8 Q And, typically, is there sort of an order to
9 it as far as where the cars go, like his car versus
10 your car versus any other car?

11 A Not really.

12 Q And do you recall on that evening which side
13 of the driveway he pulled into, the left or the right?

14 A I believe it was in front of the left garage.

15 Q And, when you come into and enter into the
16 house, when you were living there at 34 Fairview, was
17 there -- how many doors are there sort of on the front
18 of the house?

19 A Well, there's a side door by the garage and
20 then there's like a front door in the front of the
21 house.

22 Q And is there any sort of particular rhyme or
23 reason as to which door you would be entering?

24 A We usually use the side door. You know,
25 initially I tried to -- I didn't like that 'cause the

1 side door walked right into the family room. So I kind
2 of liked the other door. You could walk into a foyer,
3 you could take your shoes off, stuff like that. But
4 eventually people just didn't want to. You know, it
5 was quicker to walk in the side door for the kids, I
6 guess, so they would just go in the side door. But I
7 think that night, because of the weather and it was wet
8 out, I think I went in the front door so I could walk
9 into the foyer and take my shoes off or wipe my feet or
10 whatever. But some of the other people still may have
11 gone in the side door.

12 Q And, when you sort of come into that front
13 door where you were going in to sort of take your shoes
14 off in the foyer, is that when you ran into your
15 nephew, Colin?

16 A Yes.

17 Q Okay. And about how old was Colin around that
18 time?

19 A Seventeen.

20 Q And you mentioned that he had a ride. Did he
21 give you any indication as to who that ride was?

22 A He didn't. He didn't mention at that time who
23 the ride was.

24 Q Okay. And that sort of interaction that you
25 had with Colin in your house prior to him leaving and

1 walking out, about how long a period of time was that?

2 A A couple minutes, not even. Just a quick
3 interaction.

4 Q Okay. And then he left the home?

5 A Yeah.

6 Q And you didn't see him for the rest of the
7 night?

8 A No.

9 Q And then you come into the home. And, again
10 I'm sorry, who was there sort of initially when you
11 come?

12 A So my son Brian and his two friends, Julie and
13 Sarah, were just kind of sitting at a kitchen table in
14 like the dining room area of the kitchen.

15 Q And if you could explain to the jury sort of
16 the layout of your home at Fairview. So you walk into
17 a foyer. And then where is the kitchen related to
18 that?

19 A Well, if you walk in, if you go to the right,
20 it's like an open doorway and that's kind of like the
21 dining room part of the kitchen. But then it extends
22 to the back of the house where it's like an island and
23 like the sink and the counters and cabinets and all
24 that. So it's just like long.

25 Q So, as far as the dining room and the kitchen,

1 is there any sort of like wall or structure or anything
2 separating?

3 A No. It's open in between the two of those
4 things.

5 Q Okay. And if I were to go sort of further
6 back within that home beyond the kitchen and the dining
7 room, what's back there?

8 A Well, to the right there's like a family room.

9 Q Okay. And is there anything as far as a wall
10 -- can you see into the family room from where --

11 A You can. It's like an opening. Yeah. It's
12 not completely open, but there's an opening.

13 Q So if someone were standing in the family room
14 and you were standing in the kitchen, you could see
15 them, converse with them, that kind of thing?

16 A Yes.

17 Q Okay. And when you come in and your son
18 Brian, Jr. is sitting around the table with the two
19 girls, Sarah and Julie, what are they doing?

20 A They were just sitting there.

21 Q Was there any sort of music playing or
22 anything like that going on?

23 A There may have been. I'm not sure if there
24 was music playing at that time, but there might have
25 been.

1 Q When you say "at that time," was there
2 anything that happened later on?

3 A Later on I remember that we had music
4 connected to like a little speaker.

5 Q One of those little JBL like --

6 A Yeah. But when I first walked in I don't
7 remember if they had music going or not.

8 Q And you get back to the house, and what is it
9 that you're doing sort of when you come back in?

10 A So I come in. I assume, you know, I said
11 happy birthday to my son, said hello to his friends.
12 And then I just kind of went to the kitchen area. And,
13 like, they had ordered food. So I just did my usual
14 thing where I just was picking up. You know, it wasn't
15 a huge mess. But I was just picking up the area,
16 cleaning, probably checked the bathroom to make sure
17 that was clean. Just my usual thing that I do, just
18 picking up around the house.

19 Q And I don't mean to minimize this in any way,
20 but basically you did the mom thing where go around and
21 start cleaning up; correct?

22 A Yeah. Yeah.

23 Q And is that something that you did sort of
24 continuously throughout the evening or --

25 A Yeah. That's kind of what I do.

1 Q Now, after you arrived home who, if anyone
2 else, came by your house?

3 A Well, once we were there, it was me and my
4 daughter and my husband, and Brian Higgins had come in.
5 Then it was, you know, Brian and his two friends were
6 already there. And then my sister, Jen, and her
7 husband, Matt, came in maybe like 12:15-ish.

8 Q And, so, Mr. Higgins, did he come in around
9 the same time as you or did he come after, before?

10 A Yeah. He came in the same time. I mean, I
11 think he might have pulled up to our house before us.
12 We got out of the car and went right into the house.
13 So I assume he just came in, you know, basically around
14 the same time.

15 Q Do you have any idea sort of what Mr. Higgins
16 was driving that night when he came to your house?

17 A I believe it was a Jeep.

18 Q And do you have any idea where in reference to
19 your house where Mr. Higgins parked?

20 A I'm not sure. I thought it was out on the
21 curb, facing up Fairview, maybe by our mailbox, but it
22 could have been in the driveway. I'm just -- I'm not a
23 hundred percent sure.

24 Q Not something you were particularly paying
25 attention to?

1 A No.

2 Q And at some point after you and your daughter
3 and your husband and then Mr. Higgins comes along,
4 about how long a period of time is it between your
5 arrival in the home and then when Ms. McCabe and her
6 husband come?

7 A Fifteen minutes, twenty minutes.

8 Q And, as far as your nephew Colin, when he had
9 left was Ms. McCabe and her husband there yet?

10 A No.

11 Q And, when Ms. McCabe and her husband come,
12 where is it that -- while you're at your house where is
13 it that everybody sort of congregates?

14 A They came in and they sat down at the kitchen
15 table with Brian and his two friends, and I believe my
16 daughter, Caitlin, was sitting at the table as well.

17 Q And back at your home, after leaving the bar,
18 was there any drinking that was going on there
19 afterward?

20 A Yeah.

21 Q Okay. And about how long -- let me skip
22 forward to a little bit when people had left your home.
23 About how long a period of time was it that people
24 from the time that you arrived back from the Waterfall
25 to the time that people sort of left and you closed

1 down for the night?

2 A By the time everyone left it was probably
3 close to 2:00.

4 Q And who was the last person that left?

5 A My daughter, Caitlin.

6 Q Okay. And do you know how it was that she
7 left or who, if anyone, picked her up?

8 Q Her boyfriend, Tristin, picked her up because,
9 like I said, he was going to have to get up anyways
10 overnight to do the shoveling/plowing thing. So I
11 think she didn't want to get stuck probably at our
12 house for the next day, so she had just said, hey, can
13 you --

14 MS. LITTLE: Objection.

15 THE COURT: Okay. I'm going to end your
16 answer there.

17 Next question, Mr. Lally.

18 BY MR. LALLY:

19 Q Now, prior to your daughter Caitlin leaving,
20 who was the -- well, let me ask you this. As far as
21 people leaving from your house, what was sort of the
22 order of how people left and when people left?

23 A I believe Brian Higgins left first,
24 approximately 1:30-ish. Then Jennifer and Matt and
25 Brian's two friends left 12:45, 12:50. Then -- oh,

1 1:45, 1:50. I'm sorry. And then Caitlin was probably
2 closer to 2:00.

3 Q And, when your daughter Caitlin left, who, if
4 anyone, was left downstairs and sort of awake between
5 yourself and the other people that lived there?

6 A Just me.

7 Q So your son and your husband had both gone up
8 to bed at that point?

9 A Yes.

10 Q And at any point in time -- so you mentioned
11 that there were a number of people that were sort of
12 around the table in the kitchen; correct?

13 A Uh-hmm.

14 Q And --

15 THE COURT REPORTER: Is that "yes"?

16 THE WITNESS: Yes. Sorry.

17 BY MR. LALLY:

18 Q And where did anybody else go sort of around
19 your house during that time?

20 A I know at one point my husband and his friend
21 Brian were in our family room, so I kind of went in
22 there and was talking to them. We had some shelves on
23 the wall that just had a bunch of pictures, old
24 pictures from our wedding or when Brian was in the
25 Marines. So we would just kind of look at them,

1 laughing and talking about them. We stood in there for
2 a little bit talking. Then eventually we just moved
3 into the kitchen area where everybody else was.

4 Q And, to your knowledge, had Mr. Higgins been
5 over to your house at any point prior?

6 A He may have been at our house for a graduation
7 party, but I wasn't sure if he had ever like been
8 inside, because the party was outside, it was a
9 cookout. So I don't know if he had been in that part
10 of my house.

11 Q Now, as far as the outside of the house, at
12 any point in time during the course of the evening did
13 you hear anything unusual, see anything unusual outside
14 of your house?

15 A I didn't.

16 Q At any point in time did you go -- were you
17 aware of anybody coming to your house that didn't come
18 in?

19 A I was only aware at one point. I saw my son,
20 I think, either looking out the window or at the door
21 and his friend Julie went -- it may be that she went
22 out the side door. And I said oh to Brian, oh, is
23 Julie leaving. And he said, well, no. She had asked
24 her brother for a ride.

25 MS. LITTLE: Objection, Your Honor. Move to

1 strike.

2 THE COURT: Sustained. So no conversation.
3 So, Mr. Lally, is going to ask you another
4 question.

5 THE WITNESS: Okay.

6 BY MR. LALLY:

7 Q So you saw your son's friend Julie go outside?

8 A Uh-hmm.

9 Q Okay.

10 THE COURT REPORTER: Is that "Yes"?

11 THE WITNESS: Sorry. Yes. I'm sorry.

12 BY MR. LALLY:

13 Q And at some point did Julie come back into the
14 house?

15 A Yes.

16 Q And about how long was it, if you know, that
17 she was outside before she came back in?

18 A I don't think it was very long. A couple of
19 minutes.

20 Q And, over the course of the entirety of the
21 evening, at any point did anybody else other than the
22 people that you've talked about previously come into
23 your house?

24 A No.

25 Q And, specifically, John O'Keefe or Karen Read

1 that you saw at the bar earlier that night, at any
2 point in time on the evening of the 28th or the early
3 morning of the 29th did either of those people come
4 into your house?

5 A No, they never came into my home.

6 Q And at any point in time either on that
7 evening or that early morning of the 29th were you
8 aware that they were coming to your house?

9 A I actually wasn't. I didn't -- I think when I
10 was in the other room with my husband and his friend I
11 had missed the conversations about Jennifer reaching
12 out with John, her texting him and him texting her
13 about where we lived. I didn't even realize that that
14 was happening, that they had any intention to come.

15 Q Let me ask you a little bit about sort of
16 going back to the Waterfall just for a brief moment.
17 Over the course of your time there, how would you
18 describe sort of the tone or how was everybody at the
19 Waterfall?

20 A It was fine. It was a nice night. It was
21 nothing out of the usual. Just had a good time.

22 Q So nothing abnormal, no arguments, no fighting
23 or anything like that?

24 A No.

25 Q And the same question as it relates to back at

1 your house now at 34 Fairview Road. How would you
2 describe sort of the atmosphere back there?

3 A Same thing. We were just hanging out, sitting
4 around the house talking, having a good time, nothing
5 crazy.

6 Q Now, after your daughter, Caitlin, gets picked
7 up and she leaves, what, if any -- how long did you
8 stay up after that?

9 A I think once she left I just did my final
10 cleanup of the kitchen and, you know, shut the lights
11 and I went upstairs to bed.

12 Q And do you recall anything about locking the
13 front door or any of the doors to your house before you
14 went up to bed?

15 A No.

16 Q And is that something that you would always
17 do, typically do, never do?

18 A It was the type of thing -- we have five kids.
19 Everyone is coming in and out at different times. Like
20 the last person in was supposed to lock it. Then, you
21 know, we changed the doorknobs and immediately the keys
22 got lost. It was just always a disaster. So a lot of
23 times the door was just kind of left unlocked.

24 Q And, when you went up to bed, you share a
25 bedroom with your husband, Brian; correct?

1 A Yup.

2 Q And was he awake or asleep when you went up?

3 A He was awake. He was just lying in bed
4 watching TV.

5 Q Now, as far as over the course of that evening
6 after you come up to bed with your husband, do you
7 recall anything about him talking to anyone on the
8 phone or any phone conversations or anything like that?

9 A I do not.

10 Q At some point you fall asleep and then you
11 wake up the next day; is that right?

12 A Yes.

13 Q And turning your attention to later on that
14 morning, on the 29th -- so you had gone to bed about
15 what time?

16 A Probably 2:30-ish, somewhere around there.

17 Q And it's a little unclear from my question.
18 But when you go up to your bedroom, about what time is
19 that?

20 A About 2:00, 2:00-ish.

21 Q And, so, the 2:30 that you're talking about,
22 is that sort of when you fall asleep?

23 A Yeah, sometime around there.

24 Q And, from that next morning, how is it that
25 you wake up the next morning?

1 A Well, at some point between 6:00 and 6:30 that
2 morning my sister, Jennifer, came bursting into my
3 bedroom.

4 Q And comes bursting into your bedroom; is that
5 correct?

6 A Yes.

7 Q And what, if any -- how would you describe
8 your sister, Jennifer, and how was she sort of acting
9 at that point?

10 A Well, she came in. My husband and I just kind
11 of sat up in bed. And she's saying, he's out in the
12 snow. We found him out in the snow. We don't know if
13 he's okay. And my immediate thought was just that
14 something happened to one of my children, something
15 happened to one of her children. I couldn't imagine
16 why she was in my bedroom at this time in the morning.
17 And I'm like, Jennifer, what are you talking about.
18 And she's like --

19 MS. LITTLE: Objection. Hearsay.

20 THE COURT: All right. Next question.

21 MR. LALLY: Your Honor, if I may? May we
22 approach?

23 THE COURT: Okay.

24 (Whereupon, there was a sidebar conference as
25 follows:)

1 THE COURT: What is the objection, Ms. Little?
2 Closer to the microphone.

3 MS. LITTLE: It's hearsay, Your Honor.

4 THE COURT: Okay.

5 MR. LALLY: It is hearsay, but I believe it
6 falls under an exception based on the state of
7 minds as well as it's -- I'm not offering it for
8 the truth of the matter asserted. I'm offering it
9 -- basically, that's what gets this witness
10 downstairs in the house and onto the sort of next
11 observations as far as where she goes, what she
12 sees, effect on the listeners, essentially.

13 THE COURT: What do you expect to ask her and
14 what do you expect her to say?

15 MR. LALLY: So I just expect her to say that
16 eventually her sister -- as to John O'Keefe. And
17 she still at that point doesn't know what she's
18 talking about. And then this sister, Jennifer,
19 says, the police are downstairs and they want to
20 talk to you. And that's what causes her and her
21 husband to get up and go downstairs.

22 MS. LITTLE: I think he can just ask the
23 witness what happened next.

24 THE COURT: That's fine. Ask the witness what
25 happened next. If she answers this way, I'll allow

1 it in. Okay.

2 (Whereupon, the sidebar conference concluded.)

3 MR. LALLY: I'm sorry, Your Honor. One
4 moment.

5 BY MR. LALLY:

6 Q Let me back you up just for a second and I'll
7 get back to that.

8 As far as when your sister, Jennifer, comes
9 into your bedroom, do you know about what time that
10 was?

11 A Between 6:00 and 6:30.

12 Q And fair to say that's not a normal
13 occurrence?

14 A It's never happened before.

15 Q And if you could just describe your sister
16 Jennifer's demeanor when she first comes into your
17 bedroom.

18 A She was hysterical.

19 Q And she said some things to you. And then
20 where did you go from there?

21 A Well, I tried to ask her what was going on,
22 what is she talking about. And she told us --

23 MS. LITTLE: Objection, Your Honor.

24 THE COURT: I'm going to allow that.

25 A So she told us, you know, what had happened or

1 what she had just witnessed outside. And we were just
2 trying to -- I was trying to understand what she's
3 saying. Like I said, I didn't know if it was something
4 that happened to one of her kids, one of my kids. So I
5 said, Jennifer, I don't know what you're talking about.
6 So she finally was like, John, John, do you remember
7 John from last night at the Waterfall? And I'm like,
8 you know, what do you mean, how could he be outside?
9 And she's like you got to get up, the police are here
10 and they want to talk to you. My husband and I got up.
11 I think I threw on a sweatshirt. And we started to
12 walk down the stairs. As we walked down the stairs
13 into that foyer area, Officer Lank was walking in the
14 house.

15 Q So that front foyer area would have been the
16 front door you were talking about before?

17 A Yup.

18 Q And, when you get sort of down to the bottom
19 of the stairs, is it just Officer Lank? Are there any
20 other officers with him?

21 A It was just Officer Lank at that time. And I
22 kind of -- the door was halfway open. I kind of pushed
23 it open and looked out and I saw like cruisers and a
24 couple of guys, you know, standing out in the snow.
25 And I said, Jennifer, where's John now.

1 MS. LITTLE: Objection, Your Honor.

2 THE COURT: Okay. I'm going to ask you to
3 move on, Mr. Lally. The objection is sustained.

4 BY MR. LALLY:

5 Q As far as when you looked outside, did you see
6 any ambulance or fire trucks, anything like that?

7 A No. I didn't see an ambulance. I did see
8 maybe two cruisers. I don't remember. I don't
9 remember if there was a fire truck there. I don't
10 think there was, but I'm not sure.

11 Q And, as far as Officer Lank or any other
12 officers, these are officers with the Canton Police; is
13 that correct?

14 A Yeah.

15 Q Okay. And where did they go once you opened
16 the door?

17 A He came in the house. And I believe around
18 the same time Jennifer's husband, Matt, had come. I
19 assume she had called him, or whatever. So it was me,
20 Brian, and Jen and Matt. And Officer Lang said, you
21 know, can I come in, can I talk to you guys. And we
22 said, sure, absolutely. He came in. We sat at the
23 table. And he was just kind of asking us all, okay,
24 you know, where were you last night.

25 MS. LITTLE: Objection, Your Honor.

1 THE COURT: Sustained. Next question, please.

2 BY MR. LALLY:

3 Q And the table that you're talking about, where
4 in the house did you talk to Officer Lank?

5 A That same dining room area.

6 Q And, without regard to sort of the content of
7 the conversation, but about how long a period of time
8 did that conversation with the officer go on for?

9 A I don't know. Forty-five minutes, maybe. I'm
10 not exactly sure.

11 Q As far as how the conversation ended, at any
12 point during the conversation did yourself or your
13 sister or your husband or did anyone ever sort of end
14 the conversation or tell the officers to leave the home
15 or anything like that?

16 A No. No.

17 Q And you welcomed them inside once you realized
18 what was going on and they --

19 A Yes, absolutely. And I believe another
20 officer had come in as well.

21 Q Now, after the officers leave from your home,
22 what happened then?

23 A So I believe they left and said that someone
24 would be in touch with us, the state police or
25 somebody. So they left and we were all just kind of

1 sitting there in shock. You know, I'm asking Jennifer
2 like, you know, what happened, how did you end up here,
3 like what's going on.

4 MS. LITTLE: Objection, Your Honor.

5 THE COURT: Sustained. Next question, please.

6 MR. LALLY: Your Honor, as far as -- may we
7 approach just briefly?

8 THE COURT: Okay.

9 (Whereupon, there was a sidebar conference as
10 follows:)

11 THE COURT: Same objection, Ms. Little?

12 MS. LITTLE: Yes, Your Honor.

13 THE COURT: Okay. Mr. Lally?

14 MR. LALLY: I understand, but what this
15 witness said to someone else is not hearsay.

16 MS. LITTLE: Yes, it is.

17 THE COURT: So what is the conversation you
18 intend to --

19 MR. LALLY: Just as far as she was asking what
20 happened. But, again, I can make clear to the
21 witness that she is not to respond as to anything
22 that was said back to her. But her asking
23 questions I think is perfectly reasonable.

24 MS. LITTLE: You're asking questions -- it's
25 an out-of-court statement offered for the truth of

1 the matter asserted. She can't testify to things
2 she said. She also can't testify to things that
3 she heard other people say.

4 THE COURT: You can ask her what she did and
5 as a result of any conversation, what she did. You
6 can't ask her the specifics.

7 (Whereupon, the sidebar conference concluded.)

8 BY MR. LALLY:

9 Q And, so, Ms. Albert, without any sort of
10 specifics of your conversation with Ms. McCabe, you had
11 a conversation with her; is that correct?

12 A Yes.

13 Q And about how long did that conversation go on
14 for in the kitchen?

15 A With just her? I mean, we were all just kind
16 of sitting around at the table talking.

17 Q And, just to be clear, when we say "all," who
18 is all at this point?

19 A It was me, my husband, and Jennifer and Matt.

20 Q And at some point later on did other people
21 come over to your house?

22 A Yes. At some point my friend Brian Higgins,
23 my husband's friend Brian Higgins came over.

24 Q And do you know how he came to be at your
25 house that morning?

1 A I believe Brian called him to let him know. I
2 mean, he had been with us the night before and I think
3 he had been friends with John and Karen, so Brian
4 thought he should let him know.

5 Q And do you know about what time that was or
6 how long it was after the officers left that
7 Mr. Higgins came over?

8 A It could have been 15-20 minutes. I feel like
9 he came somewhere around 7:30-8:00 and maybe Lank had
10 been done by 7:15. I'm not really sure of specifics.

11 Q And what happened then?

12 A Then we were all just still kind of sitting
13 there. Kerry, who is another person that was called
14 that morning, she had been at the hospital, so she was
15 kind of calling Jennifer, giving updates as to what was
16 happening with John. So we were kind of waiting to
17 hear how he was, if he was okay. Then around, I don't
18 know if it was 8:00-8:30, I had noticed my sister-in-
19 law, Julie, had pulled into the driveway and I saw her
20 get out and she was putting a box of donuts in my son's
21 car, whose birthday it was. They had a bit between
22 them where every year she did that. She got him donuts
23 and she would leave them for him. So I saw her. And I
24 said to my husband, oh --

25 MS. LITTLE: Objection.

1 THE COURT: Okay. Not what you said to your
2 husband. So wait for another question.

3 THE WITNESS: Okay. I'm sorry.

4 THE COURT: That's okay.

5 BY MR. LALLY:

6 Q You spoke to your husband and where did he go?

7 A He went to the door to -- because Julie was
8 about to get back in her car and leave and I thought
9 that she should be made aware of what was going on.

10 Q So your husband goes to the door and at some
11 point your sister-in-law, Julie, comes in the house?

12 A Yes.

13 Q And, if you know, about how long a period was
14 Julie at your house initially that morning?

15 A An hour or two. I'm not sure.

16 Q If you're not sure, you're not sure.

17 So, as far as the people that were over your
18 house that morning, do you have any idea of sort of how
19 long people were congregating around your house after
20 that initial Ms. McCabe bursting into your bedroom?

21 A Again, it could have been between an hour and
22 two.

23 Q And at some point you had mentioned that the
24 Canton officers had indicated that you may be spoken to
25 at some subsequent time by troopers from the state

1 police; correct?

2 A Uh-hmm?

3 THE COURT REPORTER: "Yes"?

4 THE WITNESS: Yes.

5 BY MR. LALLY:

6 Q And when was it that you -- if you know, when
7 was it in relation to this date that you spoke to
8 anybody from the state police?

9 A I wasn't interviewed for a couple days later.

10 Q And do you recall where you were when you were
11 interviewed?

12 A I was at my house.

13 Q Now, with reference to -- you indicated that
14 on the way back from the Waterfall to your house at
15 Fairview on the night previous, on the 28th, into the
16 29th, it had just started to snow; is that correct?

17 A Uh-hmm. Yes.

18 Q Now, when you looked outside or opened the
19 door for Officer Lank as he came into the house, what,
20 if anything, did you observe as far as the weather and
21 how it had changed in the interim?

22 A Well, to me, it was starting to look like
23 blizzard conditions. It was very windy. It was
24 snowing. It was -- you know, snow was starting to come
25 down a lot now and it was probably a couple inches

1 accumulated, you know.

2 Q Now, at any point in time over the course of
3 that day, on the 29th, did you -- you, yourself, did
4 you go outside from your house into the front yard or
5 the driveway or anywhere else?

6 A I didn't.

7 Q And anyone else from your house, other than
8 the people coming and going, the people that lived
9 there, did you observe them going out into the front of
10 the house area?

11 A No.

12 MR. LALLY: Your Honor, may I approach the
13 witness?

14 THE COURT: Yes.

15 BY MR. LALLY:

16 Q Ms. Albert, I'm placing before you a series of
17 eight photographs. I'd just ask you to look at them,
18 review them, and then just look up whenever you're
19 done.

20 THE COURT: Are these already in evidence?

21 MR. LALLY: They are not.

22 BY MR. LALLY:

23 Q I'd just ask you, ma'am, in general, in those
24 photographs, do you recognize what's in those
25 photographs?

1 A Yes.

2 Q And what do you recognize those to be?

3 A That's my front yard.

4 Q That was your front yard when you lived at
5 34 Fairview Road?

6 A Yes.

7 Q And what's contained in there, is that a fair
8 and accurate portrayal of around the time of
9 January 29th, 2022?

10 A Yes.

11 MR. LALLY: Your Honor, the Commonwealth would
12 seek to introduce and admit as the next exhibit --

13 THE COURT: Is there any objection,
14 Ms. Little?

15 MS. LITTLE: No objection, Your Honor.

16 THE COURT: Thank you.

17 THE COURT: How many were there, Mr. Lally?

18 MR. LALLY: Eight, Your Honor.

19 (Whereupon, eight photographs of outside of
20 34 Fairview Road were entered and marked as Exhibit
21 Nos. 58 though 65 in Evidence.)

22 THE COURT REPORTER: Exhibits 58 though 65,
23 Your Honor.

24 THE COURT: Thank you.

25 MR. LALLY: Your Honor, may I approach just to

1 retrieve?

2 THE COURT: Yes.

3 MR. LALLY: Just one moment, Your Honor?

4 THE COURT: Yes.

5 Jurors, feel free to stand up stretch if you'd
6 like.

7 MR. LALLY: May I approach the witness, Your
8 Honor?

9 THE COURT: Yes.

10 BY MR. LALLY:

11 Q Ms. Albert, what I'm showing you here is
12 what's been marked as Exhibits 58, 59, 60, 63 and 64.
13 And I'm going to direct your attention to this before
14 you. It's a laser pointer. Just click on this button
15 there and press it. Okay?

16 A Okay.

17 MR. LALLY: And, Your Honor, with the Court's
18 permission, first I'd just like to start with
19 Exhibit 58 on the screen.

20 THE COURT: Okay.

21 BY MR. LALLY:

22 Q And, again, Ms. Albert, do you recognize
23 what's up on the screen there?

24 A Yes.

25 Q And what do you recognize that to be?

1 A It was my home at the time.

2 Q And, from this photograph, do you see that
3 front door area where the foyer is and the side door
4 area that you were talking about on your house?

5 A Yes.

6 Q Okay. And, if you could, using the laser
7 pointer in your hand, just direct the jury's attention
8 to where each of those are and indicate where they are.

9 A That would be the very front door
10 (Indicating), and the side door is over here in between
11 (Indicating).

12 Q And, as far as sort of what's in the front
13 portion of this photograph, do you recognize that as if
14 I'm standing and facing, as this photograph is, your
15 house --

16 A Uh-hmm.

17 Q -- where you lived at 34 Fairview Road?

18 What, if anything, do you have as sort of a
19 landmark or an item that you observe in that sort of
20 left area of the yard?

21 A Flagpole.

22 Q Is there a fire hydrant there as well?

23 A Yes.

24 Q And do you see anything as far as like a box
25 or something like that?

1 A Yeah. I believe there was some electrical
2 box. I don't think we ever actually knew what it was
3 or what it did.

4 Q So fair to say all the years that you lived
5 there, it's not something that you utilized or even
6 knew what it really did?

7 A No.

8 Q Now, this particular area of the yard and its
9 relation to the house, was that a part of the yard that
10 was used or utilized by the family all that much when
11 you lived there?

12 A No.

13 Q And that part of the yard with the fire
14 hydrant and flagpole, that is, how close is that to
15 sort of the next door neighbor's abutting property?

16 A It's pretty close. It's almost, I would say,
17 on the, you know, close to the property line.

18 Q Now, as far as from the side of the road, in
19 between sort of the curbing from the roadway and your
20 front lawn, there's nothing there as far as a sidewalk
21 or anything like that; is that correct?

22 A Right.

23 Q And the curbing that's between sort of the
24 roadway and the front lawn, how would you describe
25 that? Is it a sharp curb, rounded curb?

1 A It's kind of a rounded curb.

2 Q Now, with reference to your driveway, do you
3 see that depicted in this particular photograph?

4 A You can't really see it in the picture, no.
5 But, I mean, it's -- it would be over here
6 (Indicating).

7 Q Thank you.

8 A Yup.

9 Q If I could direct your attention to the next
10 photograph that you have before you.

11 MR. LALLY: And, Ms. Gilman, if I could have
12 that one up on the screen as well?

13 (Whereupon, the photograph was displayed.)

14 BY MR. LALLY:

15 Q And, again, Ms. Albert, do you recognize
16 what's up on the screen?

17 A Yes.

18 Q And this is just another photograph of your
19 home as it was around January 2022 at 34 Fairview Road?

20 A Yes.

21 Q And from this photograph do you see now sort
22 of the driveway and where that is?

23 A Yes.

24 Q And if you could just indicate to the jury
25 sort of where in this photograph that would be?

1 A The driveway was right here (Indicating). The
2 two garage doors, and then there was the driveway right
3 along here (Indicating).

4 Q Now, in reference to that driveway or in
5 reference to your family at the time you lived at the
6 house, about how many cars would there typically be
7 when everyone is home parked in the driveway?

8 A Could have been four. Let me think. I think
9 four.

10 Q And who would those vehicles be typically
11 operated by and what kind of vehicles are we talking
12 about?

13 A I had my car, which is a Cadillac SUV. My
14 husband had his work car. And then we had, I think, a
15 Ford Explorer. And then the kids were driving a Ford
16 Escape, maybe.

17 Q All sort of bigger cars, all sort of SUVs; is
18 that fair to say?

19 A Yeah. Yup.

20 Q If I could direct your attention to the next
21 photograph. And, again, what's up on the screen, is
22 that what you have before you as the next exhibit?

23 A Yes.

24 Q And, just for the record, if you could the
25 number that's on that photograph, ma'am?

1 A Sixty.

2 Q And, again, what's up on the screen, is that
3 just another depiction of your home at that time?

4 A Yes.

5 Q Now, when you open that door and Officer Lank
6 is there and you invite him into your house to talk,
7 you said that you saw some cruisers; correct?

8 A Uh-hmm.

9 Q Where in relation to your property were the
10 cruisers when you opened the door and saw them? And if
11 you could direct the jurors' attention in this
12 photograph.

13 A I believe they were right here, somewhere here
14 (Indicating).

15 Q And if I could direct your attention to the
16 next photograph that's in there. And, again, the
17 photograph that's up on the screen, is that what you
18 have before you?

19 A Uh-hmm.

20 Q And, again, I'm sorry to keep asking you --

21 A Yes.

22 Q -- but if you could read the number that's on
23 the photograph?

24 A Sixty-three.

25 Q And, so, Exhibit 63 that's up on the screen,

1 if you could describe for the jurors sort of what part
2 of your property or the abutting property we're looking
3 at?

4 A I believe our property ended, you know,
5 somewhere along here (Indicating).

6 Q Right about in the general area of the
7 electrical box and the fire hydrant you were talking
8 about?

9 A Yeah. Yup.

10 Q And that next-door residence there, do you
11 know offhand what the number was for that?

12 A I don't. Maybe 36. I'm not sure.

13 Q But somewhere in the vicinity of your number,
14 34?

15 A Yeah.

16 Q And if I could direct your attention to the
17 next photograph, ma'am?

18 A Uh-hmm. Sixty-four.

19 Q Thank you.

20 So, with respect to this photograph, as far as
21 the sort of side door, do you see that in this
22 photograph?

23 A Yeah. The side door would be right here
24 (Indicating).

25 Q And there's sort of another door off to the

1 right of the photograph; is that correct?

2 A Yup. That door would go into the garage.

3 Q And typically, at least around this time of
4 January, late January 2022, as far as the vehicles that
5 you were talking about, would any of those vehicles go
6 in the garage or what was in the garage?

7 A The garage was a little bit cluttered, so if
8 there was a storm coming we would try to arrange things
9 so we could at least maybe get one or two of the cars
10 in there. But otherwise we didn't put the cars in the
11 garage. Only if it was going, you know, be a storm, we
12 would try to get some of them out of the driveway.

13 Q And with reference to these specific dates of
14 January 28th, into the 29th, and this specific storm,
15 do you recall anything as far as putting vehicles in
16 the garage on those dates?

17 A I don't. I'm not sure. I'm not sure if we
18 had maybe put mine in there, because I had gotten
19 picked up that night. I'm not sure.

20 Q And I believe -- is there one more photograph
21 that we haven't talked about in there?

22 A Fifty-eight.

23 MR. LALLY: May I approach, Your Honor?

24 THE COURT: Yes.

25 BY MR. LALLY:

1 Q Now, in addition -- let me ask you this. At
2 this time in January of 2022 did your family have any
3 pets?

4 A Yes.

5 Q And how many pets did you have?

6 A We had one. We had a dog.

7 Q And what was the dog's name?

8 A Chloe.

9 Q And what type of dog was it?

10 A It was a German Shepherd mix.

11 Q And where -- how long had you had the dog at
12 that point in January of 2022?

13 A Six years, I believe.

14 Q And do you recall sort of when you got the
15 dog, how you got the dog, or where you got the dog
16 from?

17 A We got the dog from a shelter in Texas.

18 Q And what type of -- so shelter, it would be
19 fair to say it's a rescue dog?

20 A Yes.

21 Q And where did the dog typically go within the
22 house?

23 A It was allowed anywhere in the house.

24 Q And, as far as nighttime, would there be any
25 sort of particular pattern of where the dog would

1 sleep?

2 A Yes. At nighttime when we went up to bed, it
3 came up with us and it slept in our bedroom.

4 Q And at any point in time during the time from
5 when you returned from the Waterfall to your house,
6 where was the dog at that point?

7 A Well, the dog had been up in the room and I
8 believe my husband when we first got in brought her
9 down to let her out to go to the bathroom.

10 Q And, when the dog went out to go to the
11 bathroom when you lived at 34 Fairview Road, where
12 would the dog go? How would that -- was it on a leash
13 or --

14 A She pretty much -- no. She knew the door
15 where to go. So, when she had to go, she would go to
16 that door and she would just go out and run in the back
17 yard and go on her own.

18 Q So on her own, and someone would sort of stand
19 at the back door?

20 A Yes.

21 Q Okay. And the back door that we're talking
22 about, what kind of door was that?

23 A A regular door.

24 Q I mean, is it a door that opens? Is it a
25 sliding door, patio --

1 A No. Just a regular door and it had, I think,
2 a storm door, you know, behind it.

3 Q And the backyard area of your home at
4 34 Fairview when you lived there and around January of
5 2022, how was that enclosed, if at all?

6 A It was fenced-in.

7 Q So dogs couldn't get out if everything was
8 closed up in the back yard?

9 A Yes, as long as the gates were shut.

10 Q And, as far as that particular evening, after
11 you returned from the Waterfall, you indicated your
12 husband let the dog out. About how long a period of
13 time was the dog outside?

14 A I believe it was pretty quick. She went, did
15 her business and come back in. I think she might have
16 walked around the kitchen for a minute or two, and then
17 I think he just brought her back upstairs.

18 Q And, to your knowledge, did Chloe, the dog,
19 did Chloe go outside at any other point over the course
20 of that evening?

21 A No.

22 Q Now, at some point -- obviously, you've moved
23 from 34 Fairview to Norwood; correct?

24 A Uh-hmm.

25 Q And when about was it in relation to this

1 incident of January 29th, 2022, that you moved?

2 A We moved in April of 2023.

3 Q And what, if any, plans or discussions were
4 there in reference to moving prior to January 29th?

5 MS. LITTLE: Objection, Your Honor.

6 THE COURT: So not the specifics. Generally.
7 Not conversation.

8 A We had always planned to move. It was in our
9 plans. You know, kids were starting to get older. We
10 were looking to possibly downsize. So at the end of
11 2021 my husband's brother had sold his house --

12 MS. LITTLE: Objection.

13 THE COURT: No. I'm going to allow it.

14 A My husband's brother had sold his house and
15 got a good deal for it. It sold pretty quickly. The
16 market was really good at that time. So we decided,
17 thinking, hey, you know, the kids are getting older, a
18 couple of them had already moved out, we weren't going
19 to be able to stay in that house, you know, it's like a
20 five-bedroom house, once our kids were gone my husband
21 and I wouldn't have been able to maintain that, it
22 needed a lot of work, we couldn't afford it, you know,
23 so we said maybe now is the time we should put it on
24 the market and see what happens. So I think in
25 November or December --

1 THE COURT: So hold on. Next question,
2 Mr. Lally.

3 THE WITNESS: I'm sorry.

4 THE COURT: No. That's okay.

5 BY MR. LALLY:

6 Q So you put it on the market, it sold, and then
7 you moved to Norwood?

8 MS. LITTLE: Objection. Leading.

9 THE COURT: The objection is sustained. Ask a
10 non-leading question.

11 BY MR. LALLY:

12 Q When was it that the sale was finalized with
13 the home?

14 A April. April of '23.

15 Q And, as far as selling the house, what, if
16 any, relationship did that have to what occurred on
17 January 29th, 2022?

18 A It had no relation to it. We had already had
19 thoughts and plans of doing it before that happened.
20 We had reached out to a realtor at the end of '21.

21 MR. LALLY: May I have one moment, Your Honor?

22 THE COURT: Yes.

23 MR. LALLY: I have nothing further for this
24 witness, Your Honor.

25 THE COURT: All right. Ms. Little?

1 MS. LITTLE: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. LITTLE:

4 Q Good afternoon, Ms. Albert.

5 A Hello.

6 Q You were at the Waterfall Bar & Grill on
7 January 29th for approximately four and a half hours;
8 is that correct?

9 A I was there from, say, quarter of 8:00, 8:00
10 till about midnight.

11 Q So about four hours?

12 A Yeah.

13 Q And you were there with a group of
14 individuals, including Brian Albert, Jennifer McCabe,
15 Matt McCabe, Julie Albert, Chris Albert, Caitlin
16 Albert, and Tristin Morris, and then were later joined
17 by Brian Higgins; correct?

18 A Yes.

19 Q Okay. You testified that John O'Keefe and
20 Karen Read joined your group around 11:00 p.m.; is that
21 right?

22 A Approximately.

23 Q Over the course of those four hours that you
24 were there did you see any sort of tension whatsoever
25 between John O'Keefe and Ms. Read?

1 A Well, no. They were only there for an hour
2 when I was there, but I didn't have really any
3 interaction with them. But, no, I didn't see anything.

4 Q So, based on your observations, they appeared,
5 everyone appeared generally happy and in good spirits;
6 correct?

7 A Yes. Yup.

8 Q At any point while you were at the Waterfall
9 Bar & Grill did you observe Karen Read stumbling,
10 slurring her words, or otherwise appearing to be under
11 the influence?

12 A I did not. But, again, I never engaged in any
13 sort of conversation with her.

14 Q Did you observe your husband and Brian Higgins
15 engaging in sort of practice fighting techniques while
16 you were at the Waterfall Bar & Grill?

17 A I saw them fooling around with each other,
18 yeah.

19 Q Okay.

20 MS. LITTLE: Your Honor, if I could show just
21 a screenshot of a video that's been previously
22 marked?

23 THE COURT: A screenshot of it?

24 MS. LITTLE: Yes, Your Honor.

25 May I approach --

1 THE COURT: Yes. So can you take this down
2 just until the witness has it, please?

3 I thought you were just showing a screenshot.
4 Do you want to show it up here?

5 MS. LITTLE: Yes, if that's okay?

6 THE COURT: So what are you doing?

7 MS. LITTLE: Shall we mark that as an exhibit
8 or --

9 THE COURT: I don't think there's any need to.
10 I thought you were showing something to the
11 juror --

12 MS. LITTLE: Okay.

13 BY MR. LITTLE:

14 Q If I could show you this photograph.

15 THE COURT: All right. So we will mark it for
16 identification.

17 BY MS. LITTLE:

18 Q Ms. Albert, do you --

19 THE COURT: Hold on. So we'll mark it for
20 identification. So we'll take it from the witness
21 for a minute, please. We'll mark it for
22 identification. But this is incorporated in what
23 exhibit number?

24 MS. LITTLE: I believe it's Exhibit 53, Your
25 Honor.

1 THE COURT: All right. Just so our record is
2 clear.

3 MS. LITTLE: Thank you.

4 (Whereupon, screenshot from Waterfall video was
5 entered and marked as Exhibit "W" for
6 Identification.)

7 THE COURT REPORTER: Screenshot is "W" for
8 Identification, Your Honor.

9 THE COURT: Thank you.

10 All right. So now you can --

11 MR. LALLY: Your Honor, if I may? I haven't
12 seen what the witness is looking at.

13 THE COURT: Okay.

14 MR. LALLY: Thank you.

15 Thank you, Your Honor.

16 THE COURT: All right. So you want to display
17 it on the screen now, Ms. Little?

18 MS. LITTLE: Yes, Your Honor.

19 THE COURT: Okay. Sure. Go right ahead.

20 BY MS. LITTLE:

21 Q Ms. Albert, do you see the two individuals
22 sort of closet to us, with their backs turned to us,
23 two males?

24 A Yeah.

25 Q I know it's kind of hard to see.

1 A Yeah.

2 Q Who is the man that has just been zoomed in
3 with the logo on the back of his sweatshirt?

4 A I believe that's Brian Higgins.

5 Q Okay. And then the person -- so the person
6 with that sweatshirt is, you said, Brian Higgins?

7 A I think, yeah.

8 MS. LITTLE: And if you could zoom over to
9 over to the other individual standing right next to
10 him?

11 BY MS. LITTLE:

12 Q And I know this is kind of hard to see because
13 the number is blocking it.

14 A Yeah.

15 Q But does that appear to be your husband to the
16 left, kind of in a fighting stance?

17 A Yeah, I think so.

18 Q Okay. Ms. Albert, when your husband drinks
19 does he often --

20 THE COURT: I'm sorry. Are we taking this
21 down or keeping it up?

22 MS. LITTLE: Yes, Your Honor. We can take it
23 down.

24 THE COURT: Okay. Thank you.

25 BY MS. LITTLE:

1 Q Ms. Albert, when your husband drinks does he
2 often get into sort of these practice sparring,
3 practice fighting stances? Is that common for him?

4 MR. LALLY: Objection.

5 THE COURT: I'm going to allow it.

6 A No, I don't think so.

7 BY MS. LITTLE:

8 Q So this type of behavior was unusual for him?

9 A No. I think they was just fooling around. I
10 don't think there was anything much to it.

11 Q My question was, is it unusual for you to see
12 him sort of practice fighting with friends at a bar?

13 A I wouldn't call that practice fighting. I
14 think they were just fooling around. And, yeah, maybe
15 I've seen him do that other times, but it was fooling
16 around. They weren't practicing.

17 Q Let me put this a different way. You do know
18 that your husband is a highly-trained fighter; correct?

19 MR. LALLY: Objection.

20 THE COURT: I'll allow that.

21 A Absolutely not.

22 BY MS. LITTLE:

23 Q Your husband has no fighting experience
24 whatsoever?

25 A A highly-trained fighter? No, he's not.

1 Q He has boxing experience; correct?

2 MR. LALLY: Objection.

3 THE COURT: So I'm going to see you at sidebar
4 on this, please.

5 (Whereupon, there was a sidebar conference as
6 follows:)

7 THE COURT: Mr. Lally, what is the nature of
8 your objection? Then I'll hear from you.

9 MR. LALLY: Relevance.

10 MS. LITTLE: Your Honor, this is highly
11 relevant. This goes, first of all, to the
12 witness's credibility. It allows the jury to
13 evaluate the circumstances that occurred that night
14 right before they went to 34 Fairview. The witness
15 has just stated that her husband has no fighting
16 experience whatsoever.

17 THE COURT: Well, no. I think she said that
18 he was not a highly trained fighter. I disagree
19 with the Commonwealth. This is relevant, just the
20 wrong witness. Brian Albert is the next witness.

21 MS. LITTLE: I just have two more questions.

22 THE COURT: What are the other two questions?

23 MS. LITTLE: I want to ask her if she knows
24 whether her husband has a lot of training in boxing
25 and whether he is highly skilled in fighting from

1 being in the military.

2 THE COURT: I think you're going to get some
3 push-back on the highly skilled. I think that's
4 what the problem is.

5 MS. LITTLE: I'll ask if he has just any
6 general training and experience.

7 THE COURT: But he's the next witness. Can
8 you explain why you need it from her? You started
9 out by saying it went to her credibility.

10 MS. LITTLE: Well, she's just testified under
11 oath that he has no experience, and she was
12 reluctant to agree to the boxing, as well.

13 MR. LALLY: That's not what she testified to.

14 THE COURT: I think what she hesitated to was
15 the "highly skilled." She gave you the boxing.
16 Why don't you ask those two questions.

17 MS. LITTLE: Thank you, Your Honor.

18 (Whereupon, the sidebar conference concluded.)

19 BY MS. LITTLE:

20 Q Ms. Albert, your husband has boxing
21 experience; correct?

22 A Yes.

23 Q He also has fighting experience from his
24 training in the military; correct?

25 A I don't know what fighting experience from the

1 military means.

2 Q Well, he has --

3 A He was in the Marine Corp. He was out of the
4 Marine Corp. in 1992.

5 Q But he had training through the Marine Corp.
6 and through the Boston Police Department with fighting
7 and defensive tactics; correct?

8 A I assume so.

9 Q Ms. Albert, you testified earlier that you
10 left the Waterfall around, I believe, 11:45; is that
11 correct?

12 A No. I said, I think, closer to 12:00.

13 Q Okay. Could I show you what's been previously
14 marked as Exhibit 53?

15 MS. LITTLE: Your Honor, could I have
16 permission to publish Exhibit 53?

17 THE COURT: Okay.

18 MS. LITTLE: And, Mr. Bates, if I could have
19 you start the video at 5:14?

20 (Whereupon, the video was played.)

21 MS. LITTLE: If you could pause?

22 (Whereupon, the video was paused.)

23 BY MS. LITTLE:

24 Q Do you recognize this video?

25 A No, I don't.

1 Q Do you see the woman that's in the lower
2 quadrant? Do you recognize that individual at all?

3 A I don't. I can't tell who that is.

4 Q I know this is not the best video, so I'll
5 play a little bit more and see if you might be able to
6 recognize them. You don't recognize who that
7 individual is?

8 A I mean, it could be me. I'm not sure. I
9 can't really tell.

10 THE COURT: All right. So this is an instance
11 where the video has to speak for itself; right?

12 MS. LITTLE: Understood, Your Honor.

13 If you could play it just a little bit longer?

14 (Whereupon, the video was played.)

15 MS. LITTLE: If you could pause?

16 (Whereupon, the video was paused.)

17 BY MS. LITTLE:

18 Q Did you recognize the woman that just sort of
19 walked forward in the video?

20 A Yes. Now seeing the coat, I recognize that
21 it's me.

22 Q Thank you. And did you see what was in your
23 hand when you walked by?

24 A I don't.

25 MS. LITTLE: If you could play just a little

1 bit more?

2 (Whereupon, the video was played.)

3 BY MS. LITTLE:

4 Q Ms. Albert, do you see you appear to be
5 holding something?

6 A Yes.

7 Q What is that?

8 A It looks like a can.

9 Q And what time is that video taken?

10 A 11:58.

11 Q So that would have been approximately the time
12 that you were leaving the Waterfall Bar & Grill?

13 A Yup.

14 Q You guys had a fun night. It looks like you
15 kind of grab the White Claw, you're about to leave; is
16 that correct?

17 A Yes.

18 Q Okay. You testified earlier that you got home
19 --

20 THE COURT: So can we turn the lights back on?

21 MS. LITTLE: Yes, we can turn the lights on.

22 Thank you, Your Honor.

23 BY MS. LITTLE:

24 Q Let me switch gears a little bit. You
25 testified earlier that there are four cars that are

1 usually parked in the driveway at 34 Fairview; correct?

2 A Yes.

3 Q And you listed at least the make and model of
4 about three of those vehicles?

5 A Yup.

6 Q Do you recall that?

7 A Yup.

8 Q You said there's a Cadillac that usually is
9 parked in your driveway, there's a Ford Explorer, and
10 there's a Ford Escape; correct?

11 A Yes.

12 Q But you also said there's a fourth car.
13 That's your husband's work vehicle; correct?

14 A Yes.

15 Q What type of car is that?

16 A That's a Ford Edge.

17 Q It's a black Ford Edge; correct?

18 A Yup.

19 Q Is there a reason that you didn't want to
20 state or commit to that in front of this jury when you
21 originally testified?

22 A No, no reason. I was just trying to think of
23 all the different cars. We have five kids. We've had
24 a lot of different vehicles. I was just saying it as I
25 remembered it.

1 Q The news coverage in this case has revealed
2 the importance of the Ford Edge; correct?

3 MR. LALLY: Objection, Your Honor.

4 THE COURT: Sustained.

5 BY MS. LITTLE:

6 Q In your mind, a Ford Edge has significance to
7 this case; doesn't it?

8 MR. LALLY: Objection, Your Honor.

9 THE COURT: Can you answer that? Does a Ford
10 Edge have significance in this case to you?

11 THE WITNESS: I heard it talked about, yeah.

12 BY MS. LITTLE:

13 Q And what you've heard talked about is that an
14 eyewitness saw a Ford Edge --

15 MR. LALLY: Objection, Your Honor.

16 THE COURT: I'm going to stop you there. The
17 objection is sustained.

18 BY MS. LITTLE:

19 Q Ms. Albert, you know there's significance to
20 the Ford Edge, and that's the one vehicle --

21 MR. LALLY: Objection, Your Honor.

22 Q -- that you did not mention in your initial
23 testimony; correct?

24 THE COURT: So I'm going to allow that
25 question. Can you answer that?

1 A I just was trying to think of all the
2 different makes and models. I did not not purposefully
3 say that.

4 BY MS. LITTLE:

5 Q Okay. Where did your husband -- strike that.
6 You testified earlier that you weren't sure exactly
7 where Brian Higgins parked that night when he arrived
8 at your house; correct?

9 A Right.

10 Q And you said I'm not sure, but then you gave a
11 pretty vivid description about him being parked, you
12 think, in front of the house by the mailbox, facing
13 away from your residence; correct?

14 A Yup.

15 Q Is that statement something that's from your
16 personal recollection or from something that you've
17 discussed with other witnesses in this case?

18 A No. It's from my personal recollection of
19 what I'm pretty sure I remember. He pulled in first.
20 He back out so we could pull in. And then I'm pretty
21 sure he pulled out and parked along the curb where the
22 mailbox was.

23 Q So you haven't discussed that statement with
24 any other witnesses in this case?

25 A I don't remember. I don't think so.

1 Q You testified earlier that when you arrived at
2 34 Fairview your son, Brian Albert, Jr. is there,
3 Julie Nagel was there, Sarah Levinson was there, and
4 that your nephew, Colin Albert was also present;
5 correct?

6 A Yes.

7 Q Okay. Can you describe sort of your
8 interaction with Colin Albert when you walked in the
9 door?

10 A It was literally I was coming in, I think we
11 almost bumped into each other. I said -- I didn't
12 realize he was there. I said, hey, what are you doing
13 here. He said, oh, I just come by to see Brian, but my
14 ride is on its way, I'm about to leave. And I said,
15 oh, okay. I said, all right, happy to see you. And he
16 just kind of continued on. I think he must have went
17 out the door.

18 Q So, when you first testified, I believe you
19 stated that you saw Colin seated at the table with
20 Brian, Jr.; correct?

21 A When I testified when?

22 Q Earlier today.

23 A I don't believe I said that.

24 Q And then you said shortly after he got up.

25 A No, I don't believe I said that.

1 Q You never said that he was initially seated
2 with Brian, Jr.?

3 A No. I'm pretty sure I said when I walked in I
4 immediately saw him.

5 Q So, when you walked in the door, you're saying
6 he was already leaving to go get his ride; correct?

7 A He was standing and it looked to me like he
8 was getting ready for someone who was coming to pick
9 him up.

10 Q Got it. And, when you pulled up with
11 Brian Higgins and Brian Albert, that all happened
12 around the same time; correct?

13 A Yes.

14 Q And you have never mentioned seeing any other
15 vehicle waiting outside the house for Colin when you
16 arrived; correct?

17 A No.

18 Q And you didn't observe another vehicle outside
19 the house?

20 A No, I'm not saying -- he said to me my ride is
21 almost here, I'm leaving. So I didn't see anything
22 outside about his ride.

23 Q And it was cold outside that night?

24 A Yeah.

25 Q So he sort of walked out the door before his

1 ride arrived?

2 A I don't know if he went and stood and waited
3 by the door. I came in the house and, like I said, I
4 immediately said hello to my son, his friends. I went
5 in and started doing my cleaning and I didn't really
6 pay attention. But I assumed he left because I never
7 saw him again.

8 Q So you're not sure if he was sort of standing
9 by the front door?

10 A I'm not sure. I mean, he could have been
11 standing and waiting. He said his ride was about to be
12 there.

13 Q Okay. But you didn't see him leave?

14 A I did not see him leave.

15 Q You testified that your German Shepherd,
16 Chloe, was also at the house when you arrived home on
17 January 29th; correct?

18 A Yes.

19 Q She's a large German Shepherd?

20 A Yup, about 70 pounds.

21 Q She's not great with strangers?

22 A I wouldn't say that.

23 Q You wouldn't say that she -- it was kind of a
24 poorly worded question. Would you say that she's good
25 with strangers?

1 A I'd say she's fine with strangers.

2 Q She's fine with strangers. Okay.

3 She's definitely not good with other animals;
4 is she?

5 A No. She did not like other dogs.

6 Q Chloe actually has a well-documented bite
7 history; doesn't she?

8 MR. LALLY: Objection.

9 THE COURT: Does she?

10 A With dogs, a couple dogs, yes.

11 BY MS. LITTLE:

12 Q Ms. Albert, she also has a bite history with
13 humans; doesn't she?

14 MR. LALLY: Objection.

15 THE COURT: Ask that differently.

16 BY MS. LITTLE:

17 Q Ms. Little, Chloe has injured other humans;
18 hasn't she?

19 MR. LALLY: Objection.

20 THE COURT: I'm going to allow that.

21 A In one incident, in May of '22, when she got
22 out and was fighting with another dog, the woman whose
23 dog it was tried to break up the two dogs and while she
24 was trying to break up the two dogs she got injured.

25 Q There were actually two individuals who were

1 injured in that incident; correct?

2 A Well, there was two women, but I believe just
3 one woman, from what I understand, had an injury from
4 Chloe, that one may have fallen or something, but I'm
5 not sure a hundred percent.

6 Q There were two women who were actually taken
7 to the hospital after that incident; correct?

8 A Yes. A neighbor had called the police or
9 called an ambulance just to make sure they were okay.

10 Q And you mentioned that Chloe had actually
11 escaped from the back yard --

12 A Uh-hmm.

13 Q -- in that incident?

14 A Yes.

15 Q And that happens from time to time at your
16 house; correct?

17 A It had happened a few times, yes.

18 Q And Mr. Albert let Chloe out when he arrived
19 that night; correct?

20 A Yup.

21 Q Ms. Albert, you don't have Chloe any more; do
22 you?

23 A No.

24 Q In May of 2022, four months after
25 Mr. O'Keefe's death, you got rid of your family dog of

1 six years; is that right?

2 MR. LALLY: Objection.

3 THE COURT: Is that true? Is that when you
4 got rid of your dog?

5 A I did not get rid of my dog. I rehomed my
6 dog.

7 BY MS. LITTLE:

8 Q Your dog is no longer in the Canton area?

9 A No, but I know where she is. She's in
10 Vermont. And in previous testimony that information
11 has all been given. So, if she was ever needed for
12 anything, we know where she is.

13 Q Was that testimony given to the defense?

14 A Probably.

15 Q Was I present at the hearing where you
16 testified about this?

17 MR. LALLY: Objection, Your Honor.

18 THE COURT: Sustained.

19 MS. LITTLE: Your Honor, can we approach?

20 THE COURT: Sure.

21 (Whereupon, there was a sidebar conference as
22 follows:)

23 MS. LITTLE: I want to ask her a question
24 about, you know, the nature of testimony.

25 Obviously, that was in front of the Federal Grand

1 Jury. I don't want to overstep. I believe she's
2 trying to reference that. But I don't want the
3 jury to be left with this false --

4 THE COURT: You're talking pretty loudly.

5 MS. LITTLE: Sorry. I don't want to the jury
6 to be left with a false impression that information
7 was provided to us.

8 THE COURT: So did you --

9 MR. LALLY: It was provided to you.

10 THE COURT: Where is this testimony?

11 MR. LALLY: It's in the Federal Grand Jury
12 minutes.

13 MS. LITTLE: But not by the Commonwealth.

14 THE COURT: Oh, I'm not going to split hairs
15 on that.

16 MR. LALLY: What difference does that make?

17 THE COURT: So I'm not going to allow you to
18 get into that. So she said she testified about it
19 and you were aware of that.

20 MS. LITTLE: Okay. Thank you. May I have one
21 moment?

22 THE COURT: Sure.

23 (Whereupon, the sidebar conference concluded.)

24 BY MS. LITTLE:

25 Q Ms. Albert, you're aware that we actually

1 sought records regarding Chloe and her bite history;
2 correct?

3 MR. LALLY: Objection.

4 THE COURT: Was it from this witness?

5 MS. LITTLE: It was from --

6 THE COURT: That's a yes or no from there, yes
7 or no.

8 MS. LITTLE: Well, it was from a custodian.

9 THE COURT: Okay. I'm going to allow -- I'm
10 going to sustain the objection.

11 BY MS. LITTLE:

12 Q All right. Ms. Albert, I want to direct your
13 attention back to the early morning of January 29th.
14 You testified that everyone who arrived at your house
15 just after midnight was sort of generally gathered at
16 the table in the kitchen area; correct?

17 A Yes.

18 Q And over the course of that evening you had
19 never heard any sort of disruption outside; correct?

20 A No.

21 Q You didn't hear a crash?

22 A (No verbal response.)

23 Q You certainly never heard --

24 THE COURT: I need you to answer.

25 THE WITNESS: Sorry.

1 A No.

2 BY MS. LITTLE:

3 Q You certainly never heard any screaming or
4 yelling?

5 A No.

6 Q And you never heard the screech of any brakes
7 outside; correct?

8 A Correct.

9 Q Okay. On July 20th, 2023, you testified
10 before a grand jury and Mr. Lally was not there,
11 correct, and ADA McLaughlin was also not there;
12 correct?

13 A Okay.

14 Q Do you recall that?

15 A Yes.

16 Q And you were specifically asked during the
17 course of that hearing where everyone was positioned
18 around the table that night.

19 A Uh-hmm.

20 Q Do you remember that sort of line of
21 questioning?

22 A Yup.

23 Q And you explained that your sister, Jennifer,
24 was seated next Brian, Jr. --

25 MR. LALLY: Objection. Is there a question?

1 THE COURT: We're getting there.

2 MS. LITTLE: We're getting there.

3 THE COURT: So go ahead.

4 BY MS. LITTLE:

5 Q You were very specific about kind of how
6 people were seated at that table that night. Do you
7 remember that testimony?

8 A Yeah.

9 Q You explained that Jennifer was seated next to
10 Brian, Jr. and Matt McCabe was across from him. Do you
11 recall that?

12 A Yup.

13 Q But when you were asked where your husband and
14 Brian Higgins were positioned at the table, you weren't
15 able to place them there; isn't that true?

16 A Because I don't believe they ever sat at that
17 table.

18 Q And what you told the grand jury during that
19 hearing was that at least at one point they had left
20 the room and they were outside of your view; correct?

21 A I'm not sure I said that.

22 Q You told the jury that you were cleaning and
23 you weren't sure where they went; correct?

24 A Well, initially when I first came in the house
25 and I was doing my thing, I don't remember exactly

1 where they were.

2 Q And you told the grand jury that you don't
3 recall seeing them at the table but you don't recall
4 where they went because you were kind of focused on
5 cleaning; correct?

6 A Right.

7 Q And there was one point at which you said that
8 you joined them in the family room; is that right?

9 A Yup.

10 Q Okay. But, while you were cleaning, you said
11 I don't really know what they were doing, but they
12 weren't there; correct?

13 A Yes.

14 Q So you recall your husband and Brian Higgins
15 left your view and went to some other place in the
16 house that evening; correct?

17 A They could have.

18 Q Ms. Albert, how many steps is it from the
19 front door to the basement?

20 A Steps?

21 Q It's a poorly worded question. I will
22 rephrase it.

23 When you open the front door of your house,
24 how many steps does it take to get to the door to the
25 basement?

1 A Four or five.

2 Q You testified earlier that Brian Higgins left
3 34 Fairview first; correct?

4 A Uh-hmm. Yes.

5 Q Then Matt McCabe, Jennifer McCabe,
6 Sarah Levinson and Julie Nagel left together?

7 A Uh-hmm. Yes.

8 Q And the very last person to leave your house
9 night, you said today under oath, was your daughter,
10 Caitlin; correct?

11 A Yes.

12 Q And you said she left your house close to
13 2:00 a.m.; is that right?

14 A Yup.

15 Q Ms. Albert, that's not what you told
16 Sergeant Lank on January 29th, 2022; is it?

17 A I don't recall what I told him.

18 Q Would it refresh your recollection to take a
19 look at your statement to Sergeant Lank?

20 A Sure.

21 MS. LITTLE: May I approach the witness, Your
22 Honor?

23 THE COURT: Yes.

24 BY MS. LITTLE:

25 Q Okay. I'd like to direct your attention to

1 page 2 of the supplemental --

2 THE COURT: Show the prosecutor, please.

3 MS. LITTLE: Yes.

4 MR. LALLY: Your Honor, may we approach just
5 briefly?

6 THE COURT: Okay.

7 (Whereupon, there was a sidebar conference as
8 follows:)

9 MR. LALLY: Obviously, Attorney Little can
10 show whatever she likes to the witness to refresh
11 her memory, if that's what we are doing here. But,
12 when she refers to it as her statement and then
13 shows a police officer's report, I don't, I just
14 don't want that misconstrued as far as what she is
15 showing to the witness.

16 MS. LITTLE: I apologize. I won't do that
17 again.

18 THE COURT: Okay.

19 (Whereupon, the sidebar conference concluded.)

20 THE COURT: Ms. Little, maybe you can clarify
21 that.

22 MS. LITTLE: May I approach?

23 THE COURT: Yes.

24 BY MS. LITTLE:

25 Q I'd like you to take a look at page 2. And

1 you don't need to read it out loud, but if you could
2 read this very last paragraph here.

3 A -- seven?

4 Q Well, actually, this section right here, this
5 second paragraph to the bottom. And you don't need to
6 read it out loud. Just look up once you're done.

7 THE COURT: And are you going to clarify that,
8 Ms. Little, the statement?

9 MS. LITTLE: Can I approach, Your Honor?

10 BY MS. LITTLE:

11 Q Ms. Albert, this is just a police report
12 containing an interview that was conducted; correct?

13 A Yes.

14 Q With Sergeant Lank on January 29th; is that
15 right?

16 A Yes, the morning of.

17 Q Thank you.

18 Have you had a chance to --

19 A Yes.

20 Q Is your recollection --

21 A Yup.

22 Q Is your recollection refreshed?

23 A Yup.

24 Q Isn't it true that you told Sergeant Lank that
25 your daughter left at 12:15 on January 29th?

1 A I do not recall saying that. I've maintained
2 in every interview, testimony I've had that she was the
3 last to leave. So I don't know. It was very confusing
4 that morning. Officer Lank was trying to ask everybody
5 where had you been, where had you been, when did you
6 get here, when did you leave. I don't know if somehow
7 it was misconstrued, but I've always maintained that
8 Caitlin was the last to leave.

9 Q And that's because Sergeant Lank was talking
10 to everyone at the same time; correct?

11 A Yeah. We were sitting around the table. It
12 was a little -- everyone -- you know, we were all in
13 shock and it was a little confusing.

14 Q Sure. It was more of a conversation than an
15 interview; is that right?

16 A I guess you could say that.

17 MS. LITTLE: May I approach?

18 THE COURT: Yes.

19 BY MS. LITTLE:

20 Q Ms. Albert, do you deny saying that to
21 Sergeant Lank?

22 A I don't believe I said that. I think maybe
23 someone was saying, oh, Jen and Matt got there at
24 12:15, he misunderstood, it got misconstrued later in
25 his notes. But I've always said in any other time I

1 was questioned that my daughter was the last one to
2 leave, so I don't --

3 Q So you weren't trying to protect your
4 daughter?

5 A No.

6 Q You were forthcoming about always providing
7 the troopers with information about the individuals who
8 were present that night?

9 A Yes.

10 Q Okay. Ms. Albert, you and your family
11 discussed this case at length before your interviews
12 with law enforcement; correct?

13 MR. LALLY: Objection.

14 THE COURT: I'll allow it. Did you?

15 A Of course we discussed the case, just
16 everything that was going on. We were trying to figure
17 out what happened.

18 BY MS. LITTLE:

19 Q And you testified that you spoke to
20 Trooper Proctor on February 3rd of 2022; is that
21 correct?

22 A Yes.

23 Q That would be six days after this occurred; is
24 that right?

25 A Yeah.

1 Q And that's the very first time that you were
2 ever interviewed by Massachusetts State Police;
3 correct?

4 A Yes. Yup.

5 Q Aside from that sort of conversation you
6 described with Sergeant Lank; right?

7 A Yup.

8 Q Okay. When you spoke to Trooper Proctor on
9 February 3rd of 2022, you left a lot of names out of
10 individuals who were present at your house on the
11 morning of January 29th of 2022; isn't that correct?

12 A I'm not sure who was left out.

13 Q Did you tell Trooper Proctor that your son
14 Brian Albert, Jr. was home that night?

15 A Was home the night of his birthday? Or what
16 do you mean?

17 Q Yes, the night of his birthday.

18 A Well, yeah, that's -- he was home with his
19 friends.

20 Q Did you tell that Trooper Proctor?

21 A I assume I did.

22 Q So if it wasn't in his report, that would have
23 been his mistake?

24 MR. LALLY: Objection, Your Honor.

25 THE COURT: Sustained.

1 BY MS. LITTLE:

2 Q Did you tell Trooper Proctor your daughter,
3 Caitlin Albert, returned home with you after the
4 Waterfall?

5 A I believe so.

6 Q Did you tell Trooper Proctor that your son had
7 two female friends at your house when you arrived?

8 A I believe so.

9 Q And, notably, did you tell Trooper Proctor
10 that Colin Albert was present at your house?

11 A You know, I probably didn't because any time I
12 was questioned about who was there, to me it was who
13 was there afterwards hanging out from like the 12:15
14 point on. I didn't consider Colin as being there
15 because I literally crossed paths with him, he left,
16 and I didn't consider him being a part of the group
17 that was there.

18 Q Were you asked if he was at the house that
19 night?

20 A I assume he asked that. But I also didn't
21 mention the girls, the people that my son had previous,
22 because I didn't consider them as part of the people
23 that I was with when I got home.

24 Q You never mentioned Colin Albert to Trooper
25 Proctor; correct?

1 A Correct.

2 Q And you never mentioned Colin Albert to
3 Sergeant Lank?

4 A Correct.

5 Q Ms. Albert, you knew that if you gave Trooper
6 Proctor the name of your nephew that he would have to
7 interview him; correct?

8 MR. LALLY: Objection.

9 THE COURT: I'm going to sustain that
10 objection.

11 BY MS. LITTLE:

12 Q You didn't want your kids or your nephew to
13 have to tell the police what they saw, what they heard,
14 and what they did that night; did you?

15 MR. LALLY: Objection.

16 THE COURT: I'm going to allow that. Is that
17 true?

18 THE WITNESS: That is not true.

19 A That is not true.

20 BY MS. LITTLE:

21 Q But you never told Trooper Proctor about
22 Colin Albert?

23 A I didn't mention Colin because I didn't
24 consider him as part of the group that we were hanging
25 out with after the Waterfall because he left as soon as

1 I walked in. I didn't even think of him.

2 Q Didn't even think of him?

3 A No.

4 Q Didn't think it might be important for the
5 state trooper who is investigating this case to know
6 the individuals who were leaving at the precise time
7 that Mr. O'Keefe and Ms. Read arrived at the house?

8 MR. LALLY: Objection.

9 THE COURT: Sustained.

10 BY MS. LITTLE:

11 Q Ms. Albert, what's the first thing you
12 remember waking up to on the morning of
13 January 29th?

14 A My sister going into my bedroom.

15 Q Okay.

16 MS. LITTLE: Your Honor, if we could approach?

17 THE COURT: Approach sidebar or --

18 MR. LITTLE: Yes.

19 THE COURT: Okay.

20 (Whereupon, there was a sidebar conference as
21 follows:)

22 MS. LITTLE: I'd like to be able to show the
23 Court -- I'm sorry, the witness -- this
24 demonstrative. It's 34 Fairview, the crime scene
25 photos. As you've seen, they are not the best.

1 This is an actual replica of 34 Fairview. It's to
2 scale.

3 THE COURT: Keep your voice down.

4 MS. LITTLE: It's to scale. I think it will
5 assist the jury of being able to determine where
6 certain things are on the property.

7 THE COURT: Mr. Lally, the objection?

8 MR. LALLY: As I told Ms. Little, as long as
9 the witness can recognize it and adopt it as
10 representative of her home, then I have no
11 objection.

12 THE COURT: All right. So you just want to
13 use it as a chalk instead of an exhibit?

14 MS. LITTLE: Yes, Your Honor.

15 THE COURT: Okay.

16 MS. LITTLE: And do I have permission to
17 publish this to the jury?

18 THE COURT: Is there an objection to that,
19 Mr. Lally?

20 MR. LALLY: Assuming the witness adopts it,
21 no.

22 THE COURT: Okay.

23 MS. LITTLE: Okay. Thank you.

24 (Whereupon, the sidebar conference concluded.)

25 THE COURT: So, Ms. Little, we're going to

1 mark what you have in your hand for identification.

2 MS. LITTLE: Thank you.

3 THE COURT REPORTER: That will be "X" for
4 Identification.

5 THE COURT: Thank you.

6 (Whereupon, the sidebar conference concluded.)

7 (Whereupon, chalk re: 34 Fairview Road was entered
8 and marked as Exhibit "X" for Identification.)

9 BY MS. LALLY:

10 Q Ms. Albert, I'd like to show you this
11 photograph that purports to be --

12 THE COURT: Just show it her the photograph.

13 BY MS. LALLY:

14 Q Ms. Albert, do you recognize that photograph?

15 A Yup.

16 Q What is it?

17 A It's a picture of my house.

18 Q Does it appear to be generally to scale?

19 A Yup.

20 Q Do you recognize sort of the flagpole in the
21 yard?

22 A Yes.

23 Q The house?

24 A Yup.

25 Q The driveway?

1 A Uh-hmm.

2 Q And that looks accurate --

3 THE COURT REPORTER: "Yes"?

4 THE WITNESS: Yes.

5 BY MS. LITTLE:

6 Q And that looks accurate in terms of scale;
7 correct?

8 A Yes.

9 MS. LITTLE: Permission to publish?

10 THE COURT: Sure.

11 BY MS. LITTLE:

12 Q Ms. Albert, where is your bedroom located?

13 A Do you want me to show it?

14 Q Yes, if you could explain.

15 A Right up here (Indicating).

16 Q So your bedroom is in that upper left-hand
17 quadrant; correct?

18 A Uh-hmm. Yes.

19 Q The far left window, that's your bedroom
20 window?

21 A Yup.

22 Q Is that right?

23 A Yup, the two of them.

24 Q So on January 29th you had two bedroom windows
25 on the left side of the house that were facing the

1 front lawn where Mr. O'Keefe's body was found; correct?

2 A Yes.

3 Q You're aware that Ms. Read, Jennifer McCabe
4 and Kerry Roberts arrived outside your property around
5 6:04 a.m.; correct?

6 A Yes.

7 Q Did you hear any fire trucks that morning?

8 A I did not.

9 Q Did you hear any ambulances?

10 A I did not.

11 Q You didn't see the flashing lights of
12 emergency vehicles outside your bedroom window?

13 A I did not. My blinds were shut and my
14 curtains were closed. I did not see anything.

15 Q You testified that the very first thing you
16 remember was Jennifer McCabe waking you up in your
17 bedroom; correct?

18 A Yes.

19 THE COURT: I'm sorry. Just to keep track,
20 are we going to take this down now, Ms. Little?

21 MS. LITTLE: Yes, Your Honor.

22 THE COURT: And turn the lights on? I'm just
23 keeping track.

24 MS. LITTLE: Yes, Your Honor. Thank you.

25 THE COURT: Okay.

1 BY MS. LITTLE:

2 Q What time was that?

3 A I thought it was somewhere between 6:00 and
4 6:30.

5 MS. LITTLE: May I have a moment?

6 THE COURT: Sure.

7 BY MS. LITTLE:

8 Q If I told you it was around 6:45 based on
9 video surveillance footage, would you quarrel with
10 that?

11 A If that's what you say.

12 Q Okay. Does that sound about right to you?

13 A Yup. I initially from the beginning just said
14 6:00-6:30. I wasn't quite sure.

15 Q Ms. Albert, what about the two calls that you
16 received from your sister at 6:07 and 6:08 a.m. which
17 were answered?

18 A I never answered any phone calls from my
19 sister that morning.

20 Q You're aware that the Cellebrite records
21 indicated that you answered two calls from your sister
22 --

23 MR. LALLY: Objection, Your Honor.

24 Q -- at 6:07 and 6:08 a.m.?

25 THE COURT: The objection is sustained.

1 MS. LITTLE: Your Honor, may I approach the
2 witness?

3 THE COURT: Okay.

4 BY MS. LITTLE:

5 Q If you could take a look at this report.

6 Ms. Albert, you received --

7 MR. LALLY: Your Honor, if I -- again, if I
8 could just see what's being shown to the witness
9 before --

10 May we approach?

11 THE COURT: Okay. Let me see that, please.
12 (Whereupon, there was a sidebar conference as
13 follows:)

14 THE COURT: What is the objection?

15 MR. LALLY: I don't know how this witness is
16 supposed to authenticate a Cellebrite report of
17 someone else's home.

18 THE COURT: What is your question?

19 MS. LITTLE: My question is just does this
20 refresh your recollection as to the two calls you
21 received at 6:07 and 6:08 which were answered.

22 THE COURT: But you incorporated in your
23 question that she answered them, right, and she
24 said "no."

25 MS. LITTLE: Mr. Lally used a Cellebrite

1 report with another witness yesterday.

2 THE COURT: The Cellebrite, are these reports
3 in evidence?

4 MR. LALLY: I don't have any objection to them
5 coming into evidence but, no, they are not in
6 evidence.

7 THE COURT: So ask her if she recognizes it
8 and ask her if it refreshes her recollection as to
9 only calls not answered, anything like that, and
10 see if it does. And we'll likely take a break
11 after that.

12 MS. LITTLE: Okay.

13 THE COURT: But let's mark it for
14 identification.

15 MS. LITTLE: All right.

16 (Whereupon, the sidebar conference concluded.)

17 THE COURT: All right. So let's mark one for
18 identification, please, Ms. Little.

19 MS. LITTLE: Thank you.

20 THE COURT REPORTER: That will be "Y" for
21 Identification.

22 (Whereupon, page from Cellebrite records was
23 entered and marked as Exhibit "Y" for
24 Identification.)

25 THE COURT: Okay. You can give that back to

1 Ms. Albert. You may move back and ask the question
2 and let's see where we go with this.

3 BY MS. LITTLE:

4 Q Ms. Albert, do you recognize these documents,
5 this document?

6 A Recognize it?

7 Q Do you know what it is?

8 A Well, yeah, I see what it is.

9 Q Does it refresh your recollection as to the
10 two calls you received on the morning of January 29th?

11 A It says here two calls were placed.

12 THE COURT: Okay. Don't read it. But you
13 were asked a specific question. So if you could
14 answer the question, please.

15 BY MS. LITTLE:

16 Q Does that refresh your recollection to the two
17 calls you received from your sister on the morning of
18 January 29th?

19 A She may have placed those phone calls to me,
20 but I never answered them.

21 Q You received a call from Jennifer McCabe on
22 January 29th at 6:07:42 a.m. that lasted for nine
23 seconds; correct?

24 A She may have placed a phone call to me. I
25 never answered it. I never spoke to her that morning.

1 Q You also received a second call from your
2 sister at 6:08:17 a.m. that lasted for seven seconds;
3 correct?

4 MR. LALLY: Objection.

5 THE COURT: Go ahead and answer, ma'am.

6 A It says that, but I never answered a phone
7 call from my sister, Jennifer, that morning.

8 Q You're aware that cell phone companies have
9 what are called tolling records; correct, that show if
10 there's a voicemail or something of that nature?

11 MR. LALLY: Objection, Your Honor.

12 THE COURT: Sustained.

13 BY MS. LITTLE:

14 Q Ms. Albert, it's your testimony here today
15 that you never spoke to your sister that morning?

16 A I never spoke to my sister on the phone that
17 morning.

18 Q Who else was in your bedroom that morning?

19 A Me and my husband.

20 Q You and Brian Albert were the only two
21 individuals who could have answered those calls that
22 morning; correct?

23 A We were the only two people in the room
24 besides the dog.

25 Q And at 6:07 a.m. someone had a nine-second

1 call with Jennifer McCabe; correct?

2 MR. LALLY: Objection.

3 THE COURT: All right. Sustained.

4 And you've got more for this witness, I
5 imagine, Ms. Little?

6 MS. LITTLE: Yes, Your Honor.

7 THE COURT: Okay. So we'll take the luncheon
8 recess, folks. It's one o'clock.

9 (Whereupon, the jury was escorted from the
10 courtroom.)

11 (Whereupon, the defendant was escorted from the
12 courtroom and the luncheon recess was taken.)

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A F T E R N O O N S E S S I O N

(Court resumes at 2:10 p.m.)

(Defendant present. Jury present.)

THE COURT: All right. Can we have
Ms. Albert, please?

(Whereupon, the witness resumes the stand.)

THE COURT: All right. Ms. Little, whenever
you're ready.

MS. LITTLE: Thank you, Your Honor.

Your Honor, before we start, Exhibit "S,"
which was marked for identification, I believe the
proper foundation is laid. I'd ask --

THE COURT: So let's not do that from there.
Let me see it, please.

MS. LITTLE: Sure.

THE COURT: Do we have "S," "S" as in Sam, or
"X"?

MS. LITTLE: Marked for identification.

THE COURT: "S" as in Sam?

MS. LITTLE: Yes.

THE COURT: Why don't you come to sidebar,
folks.

(Whereupon, there was a sidebar conference as
follows:)

MS. LITTLE: Maybe it was "X."

1 MR. JACKSON: That's not it.

2 THE COURT: I thought you said "S," as in Sam.

3 MR. JACKSON: I thought it was "S," as in Sam.

4 MS. LITTLE: I think we misheard when the
5 clerk marked it.

6 MR. YANNETTI: It might have been "X."

7 MS. LITTLE: It might have been "X." My
8 apologies.

9 THE COURT: All right. So what do you say?

10 MS. LITTLE: I believe we've laid the proper
11 foundation for Exhibit "X." We'd ask that it be in
12 evidence.

13 THE COURT: Any objection?

14 MR. LALLY: No. I mean, my only -- I just --
15 it is not a photograph, and I just don't want the
16 jury to be left with that misimpression. It's my
17 understanding it's not a photograph. It's some
18 kind of graphic rendering.

19 MS. LITTLE: We will stipulate to that.

20 MR. YANNETTI: We'll stipulate it's not a
21 photograph.

22 THE COURT: Okay. I don't want to read the
23 stipulation on this into evidence. So if you are
24 going to stipulate to it, either you say it or you
25 say it.

1 MS. LITTLE: Okay.

2 THE COURT: I think it would be best for you
3 and Ms. Little say that it's a stipulation.

4 MS. LITTLE: Okay.

5 MR. LALLY: I would agree.

6 THE COURT: Okay. And before you put it in
7 evidence.

8 MR. LALLY: Yes.

9 MS. LITTLE: Okay.

10 (Whereupon, the sidebar conference concluded.)

11 MS. LITTLE: Your Honor, the parties have
12 stipulated that Exhibit "X" is a graphic
13 representation of 34 Fairview.

14 THE COURT: And not a photo of it?

15 MS. LITTLE: And not a photograph.

16 THE COURT: Okay. Sure.

17 You can approach the witness -- oh, you just
18 want to put into evidence?

19 MS. LITTLE: Yes, Your Honor.

20 THE COURT: All right. So that will be our
21 next exhibit, Madam Court Reporter.

22 THE COURT REPORTER: Exhibit 66, Your Honor.

23 THE COURT: Thank you.

24 (Whereupon, graphic representation of
25 34 Fairview Road, previously "X," was entered and

1 marked as Exhibit No. 66 in Evidence.)

2 MS. LITTLE: May I approach?

3 THE COURT: Yes.

4 CONTINUED CROSS-EXAMINATION

5 BY MS. LITTLE:

6 Q Ms. Albert, you testified that Jennifer McCabe
7 woke you up around 6:45 a.m.; correct?

8 A I believe I said between 6:00 and 6:30, but --

9 Q But that was what woke you up; correct?

10 A Yes.

11 Q She obviously had access to the house?

12 A Yes.

13 Q The door wasn't locked?

14 A Nope.

15 Q That's sort of a typical practice for you?

16 A Yeah. It was just sometimes with the kids the
17 last one in is supposed to lock it. They didn't. You
18 know, it just wasn't always locked.

19 Q And inside your house you had plenty of
20 blankets and other items that could have been comfort
21 to a man laying in the snow; correct?

22 MR. LALLY: Objection, Your Honor.

23 THE COURT: So, as to that form, I'm going to
24 sustain the objection. You can ask the question a
25 different way, Ms. Little.

1 BY MS. LITTLE:

2 Q Ms. Albert, you have blankets inside of your
3 house that could have helped someone who was freezing
4 outside?

5 MR. LALLY: Objection.

6 THE COURT: So I'm going to sustain the
7 objection. You can ask a shorter form of that
8 question.

9 BY MS. LITTLE:

10 Q Ms. Albert, you have blankets in the house;
11 correct?

12 A Yes.

13 Q You were also lying next to a first responder

14 --

15 MR. LALLY: Objection.

16 Q -- that morning; correct?

17 THE COURT: You can answer that.

18 A Yes.

19 BY MS. LITTLE:

20 Q And neither you nor your husband came outside
21 to help John O'Keefe; correct?

22 A We did not go outside because we had no idea
23 what was going on outside. We were sound asleep until
24 my sister came into my bedroom.

25 MS. LITTLE: No further questions.

1 THE COURT: Okay. Mr. Lally?

2 MR. LALLY: Thank you, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. LALLY:

5 Q Ms. Albert, with regard to phone calls from
6 your sister, Jennifer McCabe, that morning shortly
7 after 6:00 a.m., did those phone calls wake you up?

8 A No.

9 Q Did you answer those phone calls?

10 A No.

11 Q Did you speak to Jennifer McCabe on the phone
12 prior to her or at any point on that morning prior to
13 her coming into your room?

14 A I did not.

15 Q And you were shown something that says
16 Cellebrite Extraction Report; correct?

17 A Yes.

18 Q And not just that specific one, but have you
19 ever seen any Cellebrite extraction report before in
20 your life?

21 A No.

22 Q So fair to say you don't know how to interpret
23 the data that's on there?

24 A No.

25 Q Okay. And fair to say that you don't know

1 whether or not an answered call or something that's
2 listed as answered was something that was actually
3 answered or went to voicemail?

4 A Correct.

5 Q Now, with regard to your dog, Chloe, following
6 that incident in May of 2022 what, if anything, did you
7 and your husband do with regard to the person that had
8 been bitten?

9 A Well, we had gone over to their house to
10 apologize for what had happened and, you know, offered
11 to pay any bills, you know, that they may have had for
12 any injury to the dog or anything. And then after that
13 we just decided that we thought the best thing to do
14 would be to try to rehome her because I just didn't
15 want something like that to happen again.

16 Q And can you explain to the jury sort of what
17 other steps that you took in the process of rehoming
18 your dog?

19 A Well, initially I had called a bunch of
20 shelters. And they were pretty much telling me that it
21 would be hard to rehome her, she was dog aggressive,
22 and they would probably have to put her down. I didn't
23 want to do that. The family, you know, we love the
24 dog, so I did not want to do that. So I reached out to
25 the woman in Texas who we got the dog from to see if

1 she could help, and she said, you know, she couldn't
2 take it back but she would try to help me out. So she
3 ended up finding a woman who lived in Vermont and she
4 lived alone, she had big property. It seemed like a
5 good fit. She wanted to take Chloe. And we made
6 arrangements. And I went and met this woman halfway
7 and I gave her Chloe.

8 Q And what, if any, conversations or contact
9 have you had with that woman in Vermont since rehoming
10 your dog with her?

11 A For a few months after I --

12 MS. LITTLE: Objection, Your Honor.

13 THE COURT: So not the substance of it.

14 BY MR. LALLY:

15 Q Have you had contact with the woman in
16 Vermont?

17 A Yes, I did for a few months, back and forth.

18 Q Now, with reference to Chloe, when your
19 sister, Jennifer McCabe, comes in your bedroom
20 hysterical that morning of January 29th was Chloe in
21 the room at the time?

22 A Yes.

23 Q Now, you were asked some questions about the
24 evening or the early morning when people had come from
25 the Waterfall back to your home; correct?

1 A Uh-hmm.

2 Q And at some point you were cleaning and
3 Mr. Higgins and your husband were out of your line of
4 sight; is that correct?

5 A Yes.

6 Q How long a period of time are we talking?

7 A It wasn't very long. A couple minutes. I
8 wasn't watching where everybody was and what everybody
9 was doing.

10 Q Fair to say a relatively short period of time?

11 A Yes.

12 MR. LALLY: I have nothing further.

13 MS. LITTLE: Briefly, Your Honor.

14 THE COURT: Okay.

15 So we need to take this down. Thank you.

16 Go ahead.

17 RECROSS-EXAMINATION

18 BY MS. LITTLE:

19 Q Ms. Albert, you never received any voicemails
20 from Jennifer McCabe on January 29th; did you?

21 A Not that I'm aware of.

22 Q You also have never produced pursuant to our
23 request any documentation about the whereabouts of
24 Chloe?

25 MR. LALLY: Objection.

1 THE COURT: The objection is sustained. I'm
2 going to strike that question. Disregard the
3 question. Well, questions aren't evidence. So
4 leave it on the record, but the objection is
5 sustained.

6 BY MS. LITTLE:

7 Q You've never turned over any information about
8 the location of Chloe since the pendency of this case;
9 have you?

10 MR. LALLY: Objection, Your Honor. May we
11 approach?

12 THE COURT: I'm just going to sustain the
13 objection.

14 BY MS. LITTLE:

15 Q Have you ever provided information about the
16 whereabouts of Chloe to the Commonwealth in this case?

17 A Yes, I believe I have.

18 Q You have?

19 A I believe so.

20 Q When did you do that?

21 MR. LALLY: Your Honor, may we approach?

22 THE COURT: Yes.

23 (Whereupon, there was a sidebar conference as
24 follows:)

25 MR. LALLY: Your Honor, so over the luncheon

1 break, Attorney Gregory Henning was here with both
2 Mrs. Albert and Mr. Albert, who are his clients.
3 My understanding, and it's the first time I'm
4 learning this, is that apparently there was some
5 meeting that he had with the U.S. Attorney's Office
6 in which they provided documentation related to
7 them to the U.S. Attorney's Office. So I think
8 when the witness is answering this question, she is
9 answering in regard to that.

10 Nothing has ever been turned over to my office
11 or myself. So before we go down that road and into
12 that, I think that's what a truthful answer would
13 be to this. And, obviously, based on the
14 Commonwealth's motion in limine to exclude any
15 reference to that, I just want to cut it off before
16 we get there. I also don't think it's relevant in
17 any way, shape or form.

18 MS. LITTLE: This is obviously the first time
19 we are hearing about this. We've had, you know,
20 had motions in court regarding this information for
21 a long time.

22 THE COURT: You've had -- do the two of you
23 want to talk for just one minute? I'm not inclined
24 to allow this questioning based on the
25 representation of Mr. Lally.

1 MS. LITTLE: I just don't want to leave the
2 jury with the false impression that --

3 THE COURT: You've asked the same question
4 four times after I sustained it twice. I
5 understand. I'll let you, Mr. Jackson, talk with
6 Ms. Little for two seconds.
7 (Whereupon, there was a discussion off the record.)

8 MS. LITTLE: Can we suggest a stipulation that
9 she's never provided that information to the
10 Commonwealth or the defendant?

11 THE COURT: But I don't know that she has that
12 obligation, and that's a whole different line of
13 questioning. Do you want to stipulate to that?

14 MS. LITTLE: No further questions.

15 MR. LALLY: For that reason -- I think it
16 leaves the impression that she somehow was hiding
17 something or she was never ordered to provide or
18 never even asked to provide anything.

19 The issue I would have with the stipulation
20 is, is it's --

21 THE COURT: All right. I'm going to end this
22 inquiry right now, I guess. Okay.

23 MR. LALLY: Thank you, Your Honor.

24 (Whereupon, the sidebar conference concluded.)

25 THE COURT: All right. Ms. Albert, you are

1 all set. Thank you.

2 (Whereupon, the witness is excused.)

3 THE COURT: Your next witness, Mr. Lally?

4 MR. LALLY: Yes, your Honor. The Commonwealth
5 would call Mr. Brian Albert to the stand.

6 THE COURT: Okay.

7 Whereupon,

8 BRIAN ALBERT

9 having been first duly sworn, was examined and
10 testified as follows:

11 THE COURT: All right. Whenever you're ready,
12 Mr. Lally.

13 MR. LALLY: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY MR. LALLY:

16 Q Good afternoon, sir.

17 A Good afternoon.

18 THE WITNESS: Good afternoon, Your Honor.
19 Good afternoon to the jury.

20 THE COURT: Good afternoon.

21 Q Sir, could you please state your name and
22 spell your last name for the jury?

23 A Sure. It's Brian, last name Albert,
24 A-L-B-E-R-T.

25 Q And where do you live, sir?

1 A I live in Norwood, Massachusetts.

2 Q And how long have you lived in Norwood?

3 A Approximately a year.

4 Q And who, if anyone, do you live in Norwood
5 with?

6 A My wife, Nicole; and my son, Brian; and my
7 son, Brendon.

8 Q I'm going to ask you just a little bit about
9 your family. As far as -- well, let me start with
10 yourself and your wife, Nicole. How long have the two
11 of you been married?

12 A Approximately 29 years.

13 Q And were you together for a period of time
14 prior to getting married?

15 A Yes. We've known each other since we were 13,
16 14 years old.

17 Q And do you have any siblings, sir?

18 A I do.

19 Q And how many siblings do you have?

20 A I have five brothers and one sister.

21 Q And, if you could, just as far as -- are you
22 the oldest?

23 A I'm the oldest of seven, yes.

24 Q And, as far as your brothers and sisters are
25 concerned, what are their names? And if you could rank

1 them sort of by age.

2 A Sure. The next sibling after me is my sister,
3 Kathleen. Then I have a brother, Chris; a brother,
4 Kevin; a brother, Keith; a brother, Brendon; and a
5 brother, Timmy.

6 Q And you and your wife, Nicole, do you have
7 children of your own?

8 A Yes.

9 Q And how many children do you have?

10 A Five.

11 Q And how old are they?

12 A So my oldest daughter is 29. My son Brian is
13 25. My son Brendon turns 23 today. And I have twins,
14 we have twins that are 20 years old. Caitlin is 28.
15 I'm sorry. I said 29.

16 Q Now, prior to living at your address in
17 Norwood, where did you live before that?

18 A Canton. Canton, Mass.

19 Q And how long had you lived in Canton?

20 A Approximately -- in the house on Fairview
21 Road, approximately 11 years.

22 Q And in total about how long have you been a
23 resident of Canton before moving to Norwood?

24 A Approximately 45 years.

25 Q And that address, that's 34 Fairview Road; is

1 that right?

2 A Yes.

3 Q And what, if any, relationship did that home
4 or that residence have to your family before you and
5 your wife and your kids moved there?

6 A My parents had lived at that residence prior
7 to us.

8 Q So you had spent some of your childhood in
9 that house as well?

10 A Yes.

11 Q And do you work, sir?

12 A I'm retired now.

13 Q And what did you retire from?

14 A Boston Police Department.

15 Q And how long were you a member of the Boston
16 Police Department?

17 A Approximately 30 years.

18 Q And within the Boston Police Department were
19 you assigned to any sort of specific unit or special
20 duties?

21 A My last assignment, is that what you're
22 referring to?

23 Q Yes.

24 A Yes. My last assignment was the Boston Police
25 Fugitive Unit.

1 Q Now, sir, if I could turn your attention to
2 January 28th of 2022, do you recall that date?

3 A Yes.

4 Q And do you recall what day of the week that
5 was?

6 A The 28th I believe was a Friday.

7 Q And, when you first sort of got up on the
8 28th, where were you at that point?

9 A On the 28th, I was in New York, New York City.

10 Q And why had you gone to New York City?

11 A So I went to New York for a funeral of a
12 New York City Police officer who was killed in the line
13 of duty.

14 Q And about what time or what day did you go
15 down to New York for that?

16 A We went down the day before, so I believe that
17 was Thursday.

18 Q Do you recall how it was that you got down
19 there?

20 A Yes. I flew. I flew to New York.

21 Q And, when you say "we," who, if anyone, went
22 with you on that trip to New York for the funeral?

23 A I flew with a friend and a co-worker named
24 Eddie Hernandez.

25 Q So another Boston Police officer?

1 A Yes.

2 Q And down in New York at that funeral were
3 there other members of law enforcement that you knew or
4 were familiar with from working?

5 A Yes. There were thousands of police officers
6 that went to the funeral.

7 Q And included within those people, you
8 mentioned you have a brother, Kevin; is that correct?

9 A Yes.

10 Q And is a police officer as well?

11 A He is.

12 Q And where is he a police officer?

13 A He's a detective in Canton, Massachusetts.

14 Q And was he down at this funeral as well?

15 A He was.

16 Q And do you know a gentleman by the name of
17 Brian Higgins?

18 A Yes.

19 Q And was Brian Higgins at this funeral service
20 as well?

21 A Yes, he was.

22 Q And how is it that you know Brian Higgins?

23 A So I know Brian Higgins initially from work, a
24 professional relationship. I've known him for or I've
25 known of him for 10 or 15 years. And then the past few

1 years, more recently, we worked together on a closer
2 basis and I became better friends with him.

3 Q And fair to say that when you became better
4 friends with him you also sort of socialized with him
5 outside of work?

6 A Yes.

7 Q Okay. Now, as far as your return trip from
8 New York, what, if anything, happened with that?

9 A On the return trip from New York, we drove
10 back.

11 Q And why did you drive versus fly back when you
12 flew there?

13 A So that weekend there was anticipated snow,
14 snowstorm, and I believe the flight that we were taking
15 with Jet Blue may have even been cancelled. And
16 Brian Higgins was leaving in a vehicle that morning, so
17 we ended driving, or after the funeral we ended up
18 driving with him.

19 Q So it's yourself, Mr. Higgins. And then who,
20 if anyone else, went with you on the drive back to
21 Massachusetts?

22 A Eddie Hernandez and my brother Kevin.

23 Q And, when you arrived back in Massachusetts,
24 where was it sort of specifically that you went first?

25 A I initially went to Charlestown to pick up my

1 vehicle.

2 Q And where was your vehicle parked in
3 Charlestown?

4 A It was at a police station, Charlestown
5 station. It's a satellite station located in
6 Charlestown.

7 Q And that was in reference to proximity to the
8 airport; is that correct?

9 A Yes.

10 Q So that would have been Logan that you flew
11 out of and intended to fly back into?

12 A Logan Airport, yes.

13 Q Okay. And after you were dropped off with your
14 vehicle -- what kind of vehicle was that?

15 A That was a Ford Edge.

16 Q And was that a personal vehicle or a work
17 vehicle?

18 A Work vehicle.

19 Q So you get dropped back off at your work
20 vehicle. Where did you go from there?

21 A So from Charlestown, we drove, I drove back
22 towards the Canton area and I met Brian Higgins at a
23 restaurant/bar called the Hillside.

24 Q And is that in Canton as well?

25 A I believe so. It's on the Canton/Milton line.

1 I believe it sits in Canton.

2 Q And what was the purpose of you and
3 Mr. Higgins going there?

4 A After the drive home, he asked if I wanted to
5 get some food and stop off and I said yes.

6 Q And, if you know, about what time was it that
7 you got to the Hillside with Mr. Higgins?

8 A I want to say around 9:00-9:30, perhaps. I'm
9 not entirely sure.

10 Q And when you arrived there what did you do?

11 A So we went into the establishment and had a
12 drink and hung out for a while.

13 Q And did you order any food there?

14 A I did not. I believe Brian did though.

15 Q And while you were at the Hillside with
16 Mr. Higgins what, if any, communication did you receive
17 from your wife, Nicole?

18 A So around that time I talked to my wife I
19 think more than once. She had let me know that her and
20 a few people were at another location in Canton and she
21 had asked if I wanted to come by and see them.

22 Q And what was that other location, sir?

23 A That other location was the Waterfall.

24 Q And is that an establishment you were familiar
25 with?

1 A Yes.

2 Q You had been there before several times?

3 A I had been there before, yes.

4 Q So you drove then from the Hillside to the
5 Waterfall?

6 A Yes.

7 Q And about how long a drive is that, if you
8 know?

9 A Maybe seven minutes. Less than 10 minutes.

10 Q And, so, as you're going on that drive, the
11 snow that was anticipated coming in, had anything
12 related to that started yet?

13 A No. At that time I don't recall any snow.

14 Q And, in relation to the Waterfall, where did
15 you park?

16 A In the parking lot for the Waterfall, which is
17 adjacent to the door to go inside. So it's to the left
18 if you're looking at the building from Washington
19 Street.

20 Q And when you come into -- now, when you left
21 the Hillside, Mr. Higgins stayed there?

22 A Yes, he stayed.

23 Q And, when you came into the Waterfall, who, if
24 anyone, was there?

25 A So, when I walked in, I saw my wife; my oldest

1 daughter, Caitlin. I saw my brother, Chris; his wife,
2 Julie; my brother-in-law, Matt; and my sister-in-law,
3 Jen.

4 Q And your brother-in-law, Matt, and your
5 sister-in-law, Jen, their last name is McCabe; is that
6 right?

7 A Yes.

8 Q And, if you could, just explain to the jurors
9 sort of how the two of you are related, as far as where
10 does he belong.

11 A So my brother Chris' wife is Julie and then
12 Nicole's sister is Jen and then Jen's husband is
13 Matt McCabe.

14 Q And is it fair to say that you've probably
15 known Jennifer McCabe about as long as you've known
16 your wife, Nicole?

17 A Yes, since she was a little kid, maybe six,
18 seven years old.

19 Q And you see these people. And where are they
20 sort of situated in the Waterfall?

21 A So there was a high-top table kind of in the
22 front area as you walk in, kind of in the middle of the
23 room, and everybody was just kind of around the high-
24 top table.

25 Q And what, if anything, was there as far as

1 live entertainment at the Waterfall that night?

2 A There was a band playing there.

3 Q And, with reference to the people that you've
4 just spoken, as far as your wife and your daughter
5 specifically, were they at the high-top table closer to
6 the band or further away from the band?

7 A So they were on the side of the table that's,
8 I guess, closer to the door as you come in, and then
9 there were other people on the opposite side of the
10 table that was closer to the bar area.

11 Q And after you came into the Waterfall, went up
12 to the group of your family, did you order anything?
13 What did you do there?

14 A Yeah, I kind of just hi to everybody. I don't
15 recall exactly, but I'm sure I ordered a drink. And
16 then just kind of hung out with family and friends.

17 Q And following your arrival who, if anyone
18 else, showed up and eventually sort of joined your
19 group?

20 A There was another couple at the table. I
21 don't know if they were there initially when I walked
22 in. But there was another couple at the table whom I
23 believe were there before I got there, but I just don't
24 know what their names were.

25 Q And do you know how they were related to your

1 group?

2 A I don't. I think they're friends with Jen and
3 Matt, but I'm not a hundred percent sure.

4 Q And where were they situated in reference to
5 where your wife and your daughter were?

6 A So they were, I believe, to the right of this
7 pretty large high-top table.

8 Q So towards the other end of the table?

9 A Yes.

10 Q And, if you recall, what were you drinking
11 that night?

12 A I don't recall. I usually drink beer,
13 Mic Ultra, but I can't remember that night what I was
14 drinking.

15 Q Now, following your arrival there and you meet
16 up with your family, were there other friends or family
17 that eventually showed up at this establishment and
18 joined your group?

19 A Yes.

20 Q And who were they, sir?

21 A So after I was there maybe about a half hour
22 Brian Higgins arrived at the location.

23 Q And, if you recall, what, if any, sort of
24 communication did you have with Mr. Higgins or how did
25 Mr. Higgins know to come to the Waterfall specifically?

1 A Because while we were at the Hillside I had
2 mentioned that I was going to be leaving to go to the
3 Waterfall to see my family who was already there and I
4 invited him to come by if he wanted to.

5 Q And at any point in time sort of throughout
6 the course of the day -- yourself and Mr. Higgins, you
7 had each other's sort of information and cell numbers,
8 things like that?

9 A Yes.

10 Q Okay. And at any point in time throughout the
11 course of the day or the evening did you have occasion
12 to text or phone call or anything with Mr. Higgins?

13 A Yes.

14 Q Now, after Mr. Higgins arrives, who, if anyone
15 else, came into the Waterfall and joined your group?

16 A Probably after about a half hour later from
17 Brian Higgins arriving John O'Keefe came into the
18 Waterfall with the defendant.

19 Q And that would have been probably about
20 11:00 o'clock; is that correct?

21 A Yes.

22 Q And, John O'Keefe, if you could, tell the jury
23 -- well, first, did you know John O'Keefe?

24 A So I knew John O'Keefe but not well. I had
25 only met him two times prior to that night. But I knew

1 him to be a Boston cop and I knew of him, knew some
2 things about him.

3 Q And, as far as the Boston Police Department,
4 it's a fairly large department; would you agree with
5 that?

6 A Yes.

7 Q And about how many members or how many people
8 are on the Boston Police?

9 A Depending on the year, I mean, sometimes it's
10 upwards of 2,000.

11 Q And through the course of your work over the
12 decades that you worked with the Boston Police did you
13 ever work with or have any professional sort of
14 interaction with John O'Keefe?

15 A No, I don't remember working with him directly
16 within the Boston Police Department.

17 Q Were you aware of sort of what his role was or
18 what he did within the Boston Police?

19 A Yes, I knew where he worked.

20 Q And where did he work, sir?

21 A I believe he worked at the SORI Unit, which is
22 the sex offender registry unit.

23 Q And you mentioned just briefly before that you
24 had heard of Mr. O'Keefe; correct?

25 A Yes.

1 Q And what is it that you had heard about him?

2 A Well, I knew him to be a friend of my
3 sister-in-law, Jen, and her husband, Matt. I knew him
4 to be a friend of my brother, Chris and my
5 sister-in-law, Julie. I knew him to be a friend of my
6 brother Kevin's. I've heard his name mentioned
7 multiple times. And I knew that he had a horrible
8 couple tragedies in his family and I knew that he
9 stepped up and decided to take care of his niece and
10 his nephew when they tragically lost their parents.

11 Q And how would you sort of describe your
12 relationship with John O'Keefe at this time,
13 January 28th, 2022?

14 A Although I didn't know him well, I considered
15 him to be a friend and our relationship was very good,
16 cordial. You know, I considered him to be somebody
17 that I could hang out with and have a good time with.

18 Q Now, you mentioned that Mr. O'Keefe walked in
19 around 11:00 o'clock to the Waterfall with the
20 defendant. Just for clarity purposes, you're referring
21 to Karen Read; is that correct?

22 A Yes.

23 Q And do you see Ms. Read in the courtroom
24 today?

25 A Yes, I do.

1 Q Could you just identify as to where she's
2 seated or any article of clothing she's wearing?

3 A Sure. She's a female at the table in front of
4 me with the black top on, long sleeve.

5 MR. LALLY: Your Honor, just ask the record to
6 reflect identification of the defendant by the
7 witness.

8 THE COURT: Yes.

9 BY MR. LALLY:

10 Q Now, with regard to Ms. Read, had you met
11 Ms. Read prior to that date of January 28th?

12 A I believe I had met her one time a week prior.

13 Q And do you recall any specifics about that
14 meeting or how it is that you came to meet her about a
15 week prior?

16 A I do.

17 Q And, if you could, explain to the jury what
18 those circumstances were.

19 A Sure. I met her at the Hillside. I believe
20 she was there with John a week prior.

21 Q And, as far as your interaction with her on
22 that particular evening, anything significant stand out
23 to you?

24 A No.

25 Q Now, when they came in, and, by "they," I'm

1 sorry, I mean Mr. O'Keefe and Ms. Read came into the
2 Waterfall, where did they go in relation to where you
3 were sort of situated at the high-top?

4 A So I don't remember them actually walking in
5 the front door. I remember them being in my general
6 area at some point. And they went towards the other
7 side of the table where my sister-in-law, Jen, and my
8 brother-in-law, Matt, were standing.

9 Q And at some point did either or both of them
10 make their way down towards your sort of the table,
11 your side of the table, excuse me, and what, if any,
12 interaction did you have with them?

13 A Yes. I remember having an interaction or more
14 than one interaction with John. He came over to say
15 hello and we had some conversation not for too long,
16 but yes.

17 Q And do you remember anything specific about
18 that conversation or anything stand out to you?

19 A No. I think we were talking mostly about
20 work. I think he let me know that the sergeant, I
21 guess, that worked in his unit was leaving or left or
22 was transferred. And, you know, he was jokingly saying
23 that I should try to get a job over at where he works.

24 Q And, as far as the defendant, Ms. Read, what,
25 if any, conversation or interaction did you have with

1 her?

2 A I don't remember having any interaction with
3 her whatsoever.

4 Q Now, as far as when Mr. O'Keefe came over,
5 what, if anything, did you observe as far as what he
6 was wearing, clothing, anything like that?

7 A I don't really remember what he was wearing
8 for clothing. I believe he had a baseball hat on.
9 Other than that I can't remember his clothing.

10 Q And, specifically, do you recall anything as
11 far as like a winter jacket or a big coat or anything
12 like that?

13 A I can't say. I wasn't -- I wasn't really
14 paying attention to what he was wearing. I don't know.

15 Q And, as far as just his general features, as
16 far as what you could observe, what, if any, sort of
17 injuries or anything did you observe on his person at
18 that time?

19 A I observed no injuries at that time.

20 Q So over the course of the evening you had a
21 couple of interactions with Mr. O'Keefe; is that
22 correct?

23 A Yeah. I believe we talked a few times, kind
24 of hung out, stood next to each other for a while, like
25 you normally would do at a bar/restaurant.

1 Q And is the band playing while this is going
2 on; is that correct?

3 A Yes. The band was there. You know, I believe
4 they took a break here and there, but they were there
5 for the night.

6 Q Now, Mr. Albert, how would you describe sort
7 of the general mood or demeanor of the group while you
8 were at the Waterfall that evening?

9 A In one word it would be fun. Everybody was in
10 a great mood. People were getting along. It was
11 friends and family. And it just seemed like a great
12 night.

13 Q And do you recall about what time things
14 started to wind down or things started to sort of end
15 for the evening?

16 A I believe the band stopped playing probably,
17 you know, close to 12:00 and things started winding
18 down, you know, a little before 12:00.

19 Q And, if you know, from the group that you just
20 described at the high-top table that you were a part
21 of, what was sort of the order in which people left the
22 establishment, starting with the first to leave?

23 A So I believe the first to leave was myself
24 and my wife, Nicole; my daughter, Caitlin. And
25 Brian Higgins left at that time as well.

1 Q And had anybody left from your group prior to
2 when -- I'm sorry. So the bar starts to wind down
3 around 12:00; correct?

4 A Yes.

5 Q Prior to the bar winding down had anybody from
6 your group left before that?

7 A I didn't remember or notice that. I'm not
8 sure.

9 Q And, so, the first to sort of leave from your
10 group when the bar is winding down is yourself,
11 Mr. Higgins, your wife, and your daughter?

12 A Yes.

13 Q And when you exit the establishment where do
14 you go?

15 A Into the parking lot to my vehicle.

16 Q Let me take you back just for a moment back
17 into the Waterfall. During the course of the evening
18 what, if any, conversation was had by you or amongst
19 the group that you observed as far as where to go next
20 or what were you doing following the Waterfall?

21 A Okay. So there was some conversation relative
22 to people going to my brother's sub shop, which is
23 across the street, and he was maybe going to make some
24 pizzas for people if they were hungry. So that was
25 discussed.

1 Q And did that end up happening?

2 A No. Some people didn't want to go over there,
3 and for whatever reason it just didn't happen.

4 Q And beyond that was there anything else that
5 was discussed as far as where to go after the
6 Waterfall?

7 A Yes.

8 Q And what was that?

9 A So it ended up being my son Brian's 23rd
10 birthday, so at 12:00 o'clock he would be 23. So there
11 was some discussion about if anybody wanted to go by
12 the house to kind of say happy birthday to him. And I
13 know my wife, Nicole, mentioned it to Jen and Matt, and
14 it was said, I believe, in the group where we were
15 standing.

16 Q And, so, was that sort of an open invitation
17 that was extended to pretty much anybody that was
18 around the high-top tables?

19 A Yeah. Sure. Anybody that was there was
20 welcome to come by if they wanted to.

21 Q And, as far as you knew, as far as your
22 awareness of who was coming over to your house at
23 34 Fairview, who from the group were you aware of
24 coming over?

25 A I don't really remember the responses. I

1 don't think I knew for sure if anybody was going to
2 come, except Brian Higgins said he would come by.

3 Q And he had left around the same time as you?

4 A Yes.

5 Q And had Brian Higgins been to your house
6 before?

7 A I believe he was at my house for a high school
8 graduation party.

9 Q And a high school graduation probably in the
10 spring; is that correct?

11 A It would have been the summer prior to that
12 time. So my twins were graduating high school and we
13 had something at the house and it was the spring/summer
14 of the year prior.

15 Q And around that time -- so that would have
16 been 2021; is that correct?

17 A Yes.

18 Q So around that time there was still sort of
19 vestiges or whatever of the COVID pandemic; is that
20 correct?

21 A Yes. Actually, that was just getting kind of
22 getting over, I think.

23 Q And, so, where was this graduation party at
24 your house? Was that inside your house or outside your
25 house or something else?

1 A It was actually out back. It was more of a
2 cookout-type thing.

3 Q And, so, as far as you can recall, prior to
4 January 28th, 2022, had Mr. Higgins been physically
5 sort of inside your house for anything beyond using the
6 bathroom?

7 A Besides that graduation party, I don't believe
8 he had ever been at my house. I'm sure he walked into
9 the house, you know, to use the bathroom or something
10 that day, but I didn't really notice, you know, whether
11 he went in there or not.

12 MR. LALLY: And, Your Honor, with the Court's
13 permission, there's just a couple of very short
14 clips that I'd like to publish with this witness in
15 reference to what's been marked as Exhibit 53, the
16 video from the Waterfall.

17 THE COURT: Okay.

18 MR. LALLY: And, Ms. Gilman, with reference to
19 Channel 3, if I could have the fourth video down?
20 And, Ms. Gilman, if I could ask you to fast forward
21 to 18 minutes and 50 seconds?

22 (Whereupon, the video was played.)

23 BY MR. LALLY:

24 Q Now, Mr. Albert, directing your attention up
25 to the screen to your right here, do you recognize

1 what's up on the screen?

2 A Yes.

3 Q And what do you recognize that to be?

4 A The Waterfall.

5 Q And this is, at least according to the time
6 stamp, about 11:57 p.m. on the 28th; is that correct?

7 A Yes.

8 Q And what's up there, is that to your best of
9 you recollection a fair and accurate portrayal of what
10 the inside of the Waterfall looked like, absent sort of
11 the quality of the video?

12 A Yes.

13 Q So I believe there should be a laser pointer
14 on the desk before you. If you just press that button
15 and point it at the screen. What I'm going to ask you
16 to do is if you could draw the jury's attention to who,
17 if anyone, within this sort of still frame of the video
18 that you recognize, if anyone.

19 A You know, with the time band across the top
20 there I can't really -- I can see some people around
21 the table that we were standing, which would be this
22 table area here (Indicating). It's tough for me to say
23 from here who everybody is. I believe -- I believe
24 that's Brian Higgins there, but I'm not a hundred
25 percent.

1 MR. LALLY: Ms. Gilman, if you could play
2 this. And what I'm going to ask you to ultimately
3 play is up to the 19 minute and 58 second point.

4 (Whereupon, the video was played.)

5 MR. LALLY: Ms. Gilman, if you could pause it
6 there?

7 (Whereupon, the video was paused.)

8 BY MR. LALLY:

9 Q Now, Mr. Albert, from what you observe up
10 there, as far as the door that you came in and came out
11 of on that evening, do you see generally where that
12 door is?

13 A Yes.

14 Q And if you could direct the jury's attention
15 to where on the video the door is?

16 A The door is this way (Indicating).

17 Q And from just prior to leaving this video,
18 we're now stopped at the 11:57:57 mark, do you see a
19 group sort of making their way towards that front door;
20 is that correct?

21 A Yes.

22 Q And from this vantage point are you able to
23 recognize any of the people in that group that made
24 their way towards the door?

25 A Yes. I believe I saw my wife, my daughter

1 here maybe, and then I think I'm over here. But,
2 again, it's a little grainy and I can't really see
3 great from here. And I saw Brian Higgins, but I don't
4 know if he's in here somewhere.

5 MR. LALLY: Thank you, Ms. Gilman. If you
6 could just press play again for about 30-some-odd
7 seconds?

8 (Whereupon, the video was played.)

9 MR. LALLY: Thank you, Ms. Gilman. If you
10 could take that down. And then, Ms. Gilman, if I
11 could ask for one other video from Channel 1, the
12 second one down. And if I could ask you to fast
13 forward that to about five minutes and 10 seconds.
14 And ultimately I'm going to ask you to play it from
15 five minutes and 10 seconds to five minutes and 50
16 seconds. If you could press play?

17 (Whereupon, the video was played.)

18 BY MR. LALLY:

19 Q Now, generally speaking, what was just played
20 up on the screen, Mr. Albert, do you recognize what
21 that is?

22 A Yeah. It looks like the exit of the Waterfall
23 and we're kind of walking out.

24 Q So same group that was just walking through
25 the front door is now walking out the front door and

1 into the parking lot?

2 A Yes. And I believe there was somebody else
3 there. I don't know if it was somebody from the band
4 or -- it looks like a different person out front there.

5 Q Okay. Thank you, sir.

6 MR. LALLY: Ms. Gilman, you can take that
7 down.

8 BY MR. LALLY:

9 Q Now, Mr. Albert, when you get to the parking
10 lot, you get in the vehicle and you drive to your
11 house; is that right?

12 A Yes.

13 Q Okay. And, specifically, you're the one
14 driving; is that correct?

15 A Yes.

16 Q Okay. And who is in your car with you on the
17 drive back to your house?

18 A My wife, Nicole; and my daughter, Caitlin.

19 Q And about how far a drive is it from the
20 Waterfall to your house?

21 A I would say five minutes.

22 Q And the weather, as far as when you walk out,
23 get in the car and then start driving, what, if
24 anything, had changed about the weather from the time
25 you came into the Waterfall until the time you came

1 out?

2 A Yes. So it had started snowing a little bit
3 more heavily. You can kind of see that on that second
4 video. So the ground was beginning to be, you know,
5 coated, it looked like.

6 Q So a coating on the ground. But as you were
7 driving could you still sort of see the blacktop of the
8 roadway?

9 A I believe so, yes.

10 Q Now, you get to your house. And what, if
11 anything, happens sort of as you're coming into your
12 driveway?

13 A It looks like -- it had looked like Brian had
14 gotten there first, Brian Higgins, and he was backing
15 out so I could pull my car in.

16 Q And, as far as the vehicle that Mr. Higgins
17 was driving on that evening from the Waterfall, was
18 that the same vehicle that he had driven with you back
19 from New York?

20 A No.

21 Q And what kind of vehicle was the one that he
22 was driving back from New York and what kind of vehicle
23 was the one he was driving that night?

24 A So the one back from New York, he was driving
25 a full-size pick-up truck. I'm not sure what make or

1 model, but it had a cab on the back and I believe it's
2 gray. And then that night, later in the night at the
3 Waterfall he had a Jeep Wrangler vehicle that I believe
4 is white but I'm not a hundred percent.

5 Q So he had arrived at your house before you; is
6 that correct?

7 A Yes.

8 Q And you said it looked like he had done
9 something to the driveway; is that right?

10 A He may have skimmed -- yeah. He had a plow on
11 this truck and I think he may have skimmed the plow,
12 the driveway and then pulled out and then we pulled in.

13 Q And, as far as the vehicles at your house,
14 around this time in January of '22, between yourself,
15 your wife, kids, how many vehicles did you have?

16 A I believe three.

17 Q And what type of vehicles and who was sort of
18 the primary driver with regard to those vehicles?

19 A So I had a -- we had a Ford Explorer, a
20 Cadillac SUV, it's a smaller SUV, that my wife Nicole
21 drives, and the Ford Edge that I already spoke of. And
22 I believe we had one more vehicle that one of my kids
23 drove at that time. I'm just trying to remember. It
24 might have been an Escape, maybe a Ford Escape.

25 Q So all --

1 A And someone could have had that -- someone
2 could have had that at school because I don't remember
3 if it was there that night or not.

4 Q So all the vehicles were essentially like SUV-
5 type vehicles?

6 A Yes. We didn't own any sedans or any cars.

7 Q Now, as far as when you pull into the
8 driveway, the house at 34 Fairview had a two-car
9 garage?

10 A Yes.

11 Q And is the garage something that you or other
12 members of your family would utilize as far as parking
13 vehicles?

14 A No. So, unfortunately, we didn't use the
15 garage a lot because we kind of used it for storage and
16 we had a lot of stuff out there, so we very seldom used
17 it.

18 Q And, if you recall, as you're pulling into the
19 driveway, did you pull into the left side, the right
20 side?

21 A I believe I pulled in on the left side of the
22 driveway.

23 Q And you mentioned that Mr. Higgins had sort of
24 scooped with the plow like in the driveway and then
25 parked on the street. Do you recall where in relation

1 to your house or your driveway he parked?

2 A So, no, I don't remember where Brian Higgins
3 parked. I remember him pulling out so I could pull in.
4 And then I didn't really see where he parked.

5 Q And you then go into your house; is that
6 correct?

7 A Yes.

8 Q And are all of you -- and, by "all of you,"
9 I mean yourself, your wife, your daughter, and
10 Mr. Higgins -- all sort of coming in around the same
11 time?

12 A Basically, yes.

13 Q And, when you come into your house, do you
14 recall -- how many doors in the front of the house are
15 there?

16 A So we have two front doors.

17 Q And one would be sort of by some steps; is
18 that correct?

19 A There's actually steps on both doors, but, you
20 know, one of them is, I guess, considered the front
21 door with a large set of steps.

22 Q And they would be sort of brick steps; is that
23 right?

24 A Yes.

25 Q And that leads into a foyer area of the house?

1 A Yes.

2 Q And the other door, where does that lead into?

3 A So the other door opens up right into the --
4 you know, we call it the family room -- but right into
5 the family room/den area.

6 Q And do you recall specifically which door you
7 utilized on that evening to go into the house?

8 A I believe I went in the door on the right,
9 which goes into the den. I'm not really sure what
10 other doors people used.

11 Q And when you came into the house who, if
12 anyone, was present beyond the people that you had come
13 in with?

14 A So my son, Brian was home. He had two
15 friends, I believe, Julie and Sarah.

16 Q And these were people that you had known as
17 friends of your son from prior occasions?

18 A I didn't know -- I didn't know Sarah. I knew
19 -- I had met Julie once or twice.

20 Q And, as you were walking in, who, if anyone
21 else, beyond your son and his two friends was there?

22 A And my nephew, Colin.

23 Q And that would be Colin Albert; is that
24 correct?

25 A Yes. Chris and Julie's son, Colin.

1 Q And about how old was Colin around that time?

2 A I believe he was just about 18, 17, 18. He's
3 in high school.

4 Q So he was still in high school at the time?

5 A Yes.

6 Q And when you walk in where was Colin in
7 relation to your son and the two girls that he was
8 with?

9 A He was just kind of standing in the kitchen
10 with Brian and the two girls. Brian and the two girls
11 were at the kitchen table and Colin was just kind of
12 standing there.

13 Q And, from the time that you arrived home, how
14 long was Colin at your house?

15 A No more than five minutes.

16 Q And where did he go?

17 A He left. He just said he was getting picked
18 up.

19 Q Okay. So he said he was getting picked up and
20 a few minutes later he left your house?

21 A Yes. I went and used the bathroom. I came
22 out and he was gone.

23 Q Now, at some point subsequent to that who, if
24 anyone else, arrived or showed up at your house?

25 A After Colin left the house?

1 Q Yes.

2 A Nobody else arrived at the house.

3 Q Your sister-in-law, Jennifer McCabe, and
4 Matthew McCabe, at some point did they come by?

5 A Yes. I thought you were referring to after
6 everybody, after they showed up.

7 Q So my question is, do you know whether or not
8 when Jennifer McCabe and Matthew McCabe arrived at your
9 house was Colin still there?

10 A I don't know if he was still there or not. I
11 believe he left before they came, but I'm not a hundred
12 percent.

13 Q So you come home and you go to use the
14 restroom; is that correct?

15 A Yes.

16 Q And when you go to use the restroom Colin is
17 there; correct?

18 A Yes.

19 Q And the McCabes are not?

20 A They are not.

21 Q And when you come back from the restroom Colin
22 is not there?

23 A Yes. Colin was gone.

24 Q And the McCabes are there?

25 A No. I don't believe they had arrived yet.

1 Q Okay. So they arrive sometime after Colin had
2 left?

3 A Yes.

4 Q Okay. And over the course of that evening of
5 the 28th, into the early morning of the 29th did
6 anybody else come into your house or -- did anybody
7 else come into your house at any point?

8 A No.

9 Q Now, in addition to yourself, your wife and
10 you son, did you have any pets at that time?

11 A Yes, we did.

12 Q And what kind of pet did you have?

13 A We had a dog.

14 Q And what kind of dog was that?

15 A So it was a German Shepherd mix.

16 Q And what was the name of the dog?

17 A Chloe.

18 Q And how long had you and your family had the
19 dog?

20 A We had Chloe for approximately at that time
21 maybe six or seven years.

22 Q And do you recall how you got the dog or where
23 you got the dog from?

24 A The dog was from a shelter in Dallas, Texas,
25 actually.

1 Q So essentially a rescue dog; is that correct?

2 A Yes, a rescue dog.

3 Q And when you got home after you went to the
4 bathroom what, if anything, did you do with reference
5 to the dog, to Chloe?

6 A At some point I went upstairs to grab the dog
7 and let her out back to use the bathroom.

8 Q So when you would take the dog out or when
9 anybody would take the dog out to use the bathroom how
10 would that be accomplished? And what I'm asking is
11 would the dog be on a leash or would it be let out in
12 the yard or --

13 A No. So the back yard is fenced in. So I
14 would open up the back door and she'd go out, use the
15 bathroom and come back inside.

16 Q So the entirety of your back yard, that's a
17 fenced-in back yard; is that correct?

18 A Yes.

19 Q And beyond that fence, as far as the abutting,
20 what sort of abuts the back of your property?

21 A So behind the back fence there's a railroad
22 track. I believe it's a commuter rail that's behind
23 the fence.

24 Q And is there any sort of opening or way to
25 open the back of that fence to get in sort of any

1 wooded area between your house and the tracks?

2 A Yes. There's a gate back there.

3 Q And the gate, as far as when you let the dog
4 out in the back that night, did you stay with the dog
5 while the dog was outside?

6 A I stayed at the doorway and the dog went to
7 the bathroom and then ran right back in.

8 Q So about how long was the dog outside for?

9 A She was out back for maybe two or three
10 minutes.

11 Q So went outside, went to the bathroom, came
12 back in?

13 A Yes.

14 Q And, when the dog came back inside the house,
15 where did the dog go from there?

16 A So the dog kind of walked around in the
17 kitchen for a few minutes and then I took her upstairs.

18 Q And, when you took her upstairs, where
19 upstairs did you take her?

20 A So the dog likes to sleep in our room, mine
21 and my wife's room. So a lot of times she would go up
22 there on her own. Sometimes I would walk her up. And
23 I walked her up to our bedroom.

24 Q And at any point in time for the remainder of
25 that evening and the early morning did the dog go

1 outside at all?

2 A No.

3 Q Now, you mentioned that there are train tracks
4 that run sort of close to your property; is that
5 correct?

6 A Yes.

7 Q And is that just the commuter rail, or does
8 the Acela go by or anything else?

9 A I believe there is in addition to the commuter
10 rail there's other trains that use that track, yes.

11 Q And how often sort of on a daily basis do
12 trains go by your house on Fairview Road?

13 A So it depends, I guess, schedule-wise, if it's
14 the middle of the week or if it's the weekend. But,
15 you know, on any given day they can go by five or six
16 times, you know, morning -- you know, more towards the
17 rush hour times, morning, at night, and then sometimes
18 at night and sometimes during the day. So really all
19 day and night.

20 Q And, when the trains go by, about how loud is
21 that as far as from your house?

22 A So it's loud. Although having lived there for
23 a period of time, I feel like at least I'm kind of
24 immune to the sound. I don't really hear it as much
25 any more.

1 Q So, essentially, based on how long you've
2 lived there, you really don't even hear it anymore?

3 A Not really, no.

4 Q Now, you let the dog out and you bring the dog
5 back upstairs. And then where did you go from there?

6 A So after I brought the dog up I just came back
7 down and hung out with everybody else.

8 Q And where within your house was everybody else
9 sort of situated?

10 A So everybody was in the kitchen. And then we
11 have a connecting dining room, but it's open. It's
12 only, you know, a difference of five feet. And then we
13 have the family room/den that's adjacent to the
14 kitchen. But they're all within -- they're all close
15 proximity.

16 Q So the kitchen and the dining room are sort of
17 the same room; is that correct?

18 A Yes.

19 Q And, as far as the -- what, if anything, is
20 between the kitchen and the dining room and the living
21 room that you were talking about?

22 A So there's a wall, but there's a doorway. So
23 there's really no barrier to go from the kitchen/dining
24 room into the family room.

25 Q So, if somebody is standing in the family room

1 and somebody is standing in the kitchen/dining area,
2 they can sort of see each other?

3 A Yes.

4 Q Now, in the kitchen area where everybody was,
5 or in the kitchen/dining room area, do you recall sort
6 of where people were and what they were doing around
7 that time?

8 A Yeah. I think people were just sitting
9 around, you know, having drinks. Someone had a speaker
10 and they were listening to music and just talking and
11 hanging out.

12 Q And, as far as the sort of group and sort of
13 the overall mood or demeanor of the group back at the
14 house, how would you describe that?

15 A Pleasant, fun. Everybody was having a good
16 time. You know, we were wishing Brian a happy birthday
17 and everything was going great.

18 Q And at any point in time while this was all
19 going on did you, other than your situation with the
20 dog, was there any point in time where you were not
21 with the group in the kitchen/dining area?

22 A No. I was there basically for the whole
23 night, except I think at one point I might have shown
24 Brian Higgins some photos that were in my son's room
25 that were upstairs.

1 Q And what kind of photos are we talking about?

2 A So one of the -- my son Jack, who's one of the
3 twins, was in the Marines or is in the Marines, and we
4 had put some plaques and some stuff in his room
5 upstairs. And Brian Higgins was prior military, as am
6 I, and I thought he would want to see the photos, so I
7 had him look at them.

8 Q And, for that period of time that you were
9 outside of sort the kitchen/dining room area looking at
10 the photos with Mr. Higgins, about how long a period of
11 time are we talking?

12 A Very quickly. You know, two minutes. Maybe
13 three minutes.

14 Q Now, at some point over the course of that
15 morning things started to sort of wind down at your
16 home; is that fair to say?

17 A Yes.

18 Q And about what time was that that people
19 started to -- things started to wind down and people
20 started to leave?

21 A I think Brian left at around 1:30. I believe
22 he was the first to leave. And then others left after
23 that.

24 Q And, when you say "others left after that,"
25 after Mr. Higgins left your house where did you go?

1 A So after Brian left I had gone upstairs and
2 hung out and watched TV up in my bedroom.

3 Q You had a long day that day; is that fair to
4 say?

5 A Yes. I had the funeral in New York that
6 morning and we had the long drive back and we had been
7 out and now we're hanging out at my house and it had
8 been a long day, yes.

9 Q And, so, at any point in time after you went
10 upstairs after Mr. Higgins left did you come back
11 downstairs at all?

12 A Yes. I think I popped back down at one point
13 just to see kind of how long people were going to be
14 there and then went back up.

15 Q And, when you pop back down, how many people
16 were still there?

17 A I think Jen and Matt were still there and the
18 two -- Brian's two friends were still there and my
19 daughter, Caitlin.

20 Q Now, as far as beyond Mr. Higgins when he
21 left, was there any other occasion that you can recall
22 where somebody from your house went outside and then
23 came back?

24 A Yes.

25 Q And who was that?

1 A So while we were hanging out I believe Julie,
2 the girl Julie Nagel's brother came to the house. I
3 never saw him, but I could hear them saying that he was
4 out front. And I think Julie Nagel had walked outside
5 to talk to him.

6 Q And at some point after she walked outside she
7 came back inside; is that correct?

8 A Yes.

9 Q And about how long a period of time, if you
10 know, was she outside for?

11 A I didn't really -- I didn't really pay
12 attention to how long it was. I don't think it was
13 that long.

14 Q And, as far as the outside of your house,
15 after you had let Chloe out and back in, what, if any,
16 observations did you make outside of your house? Did
17 you look out? Did you see anything outside the house?

18 A Just that we have windows in the back of the
19 kitchen area. You could just see that it was snowing.

20 Q Is that sort of like a bay window in the
21 kitchen?

22 A Yes. It's a large bay window in the kitchen.

23 Q And, when you look out the bay window in the
24 kitchen, what part of your property does that face?

25 A So it's the back yard. You can see the back

1 yard. The bulkhead is right under that bay window.
2 And, you know, you pretty much have a view of the whole
3 back yard if it's in the daytime, but it was obviously
4 a little dark.

5 Q So can you see the front of the house, any
6 part of the front of the house when you're looking at
7 the bay window?

8 A No.

9 Q So at any point in time over the course of the
10 evening did you look out front to see anything out in
11 front of your house?

12 A No.

13 Q Now, at any point in time over the course of
14 the evening did you hear anything from the front of the
15 house, the back of the house, anywhere around the house
16 that drew your attention outside?

17 A No.

18 Q Now, at any point in time during the evening
19 did you know or did you become aware of either
20 John O'Keefe or the defendant, Karen Read, coming over
21 to your house?

22 A No.

23 Q And at no point in time over the course of
24 that evening or the early morning there did
25 John O'Keefe or Karen Read physically come into your

1 house?

2 A John O'Keefe and Karen Read never entered my
3 house.

4 Q And, so, you go up to bed and the group is
5 still sort of downstairs; is that correct?

6 A Yes.

7 Q And at some point your wife, Nicole, who you
8 share a bedroom with, does she come upstairs?

9 A Yes.

10 Q And do you know about what time that was?

11 A It was probably 2:00-ish. I'm not exactly
12 sure, but around 2:00, 2:00 o'clock.

13 Q And the doors to your house, as far as the
14 front doors and the back doors, is that -- what is sort
15 of the situation with regard to locking the doors
16 before everybody goes to bed?

17 A Can you rephrase that?

18 Q Sure. When you lived at 34 Fairview Road,
19 there are a number of doors to the house, including two
20 doors in the front; correct?

21 A Yes.

22 Q Okay. And how is that -- well, let me ask you
23 this. Would it be unusual for the front doors of your
24 house to remain unlocked overnight?

25 A No.

1 Q Is that something that happened on occasion,
2 where people were supposed to lock the doors but didn't
3 lock the doors?

4 A Yes. From time to time the doors, people
5 would just forget to lock them or we just didn't lock
6 them.

7 Q So your wife comes up to your bedroom about
8 2:00 a.m. or so. As far as you knew, everybody else
9 had left the house at that point?

10 A Yes.

11 Q And you're up for a period of time with your
12 wife; is that correct?

13 A Yes.

14 Q And over the course of that time, so sort of
15 following 2:00 o'clock in the morning, do you recall
16 any sort of phone call or phone conversation with
17 Mr. Higgins or anybody else?

18 A No.

19 Q And at some point you fall asleep. Do you
20 recall about when that was?

21 A I don't, but it was obviously after 2:00
22 because that's when she came upstairs. We watched TV
23 and kind of hung out together for a while and then went
24 to sleep.

25 Q And the dog, Chloe, was she up in the room

1 where you had brought her up before?

2 A Yes.

3 Q And she was there overnight; is that correct?

4 A Yes.

5 Q Now, turning your attention to later on that
6 morning or, you know, the beginning of that morning,
7 the daytime morning of January 29th, obviously, at some
8 point you wake up; correct?

9 A Yes.

10 Q And what is it that wakes you up on that
11 morning?

12 A I was awoken that morning to my sister-in-law
13 Jen had burst into my room.

14 Q And do you know about what time that was?

15 A It was between -- it was early in the morning.
16 Between 6:00 and 6:30, I would say.

17 Q And fair to say that's not a normal
18 occurrence?

19 A No.

20 Q And, when she burst into your room, can you
21 describe her demeanor or sort of how she appeared when
22 she first came in?

23 A She was very upset, almost hysterical.

24 Q And what, if anything, did she say when she
25 came into the room?

1 A She said something to the effect John is dead.

2 MR. JACKSON: Objection.

3 THE COURT: Next question, please. Sustained
4 unless you lay a foundation.

5 BY MR. LALLY:

6 Q Did you know who she was referring to when she
7 initially comes into your room?

8 A I initially did not.

9 Q And at some point during the course of that
10 conversation does Ms. McCabe make reference to going
11 downstairs?

12 A Yes.

13 Q And prior to that, not the content of the
14 conversation but as far as the length of the
15 conversation, about how long was that length of the
16 conversation that occurred in your bedroom between
17 yourself and Ms. McCabe and your wife?

18 A Probably a minute.

19 Q And the demeanor that you described as far as
20 Ms. McCabe was concerned as almost hysterical, was that
21 continuous throughout that initial conversation?

22 A Yes. She was very upset.

23 Q And who, if anyone, if she indicated, was
24 downstairs or why did you go downstairs?

25 A She said that the police --

1 MR. JACKSON: Objection.

2 THE COURT: This I'm going to allow with that
3 foundation.

4 BY MR. LALLY:

5 Q Go ahead.

6 A She said that the police were downstairs.

7 Q And, so, you went downstairs to talk to the
8 police?

9 A Yes.

10 Q And, when you go downstairs, what do you see
11 when you get to sort of the bottom of the stairs?

12 A I saw a Canton Police officer downstairs.

13 Q So inside your house at that point?

14 A Yes.

15 Q And the door to your house, was it still open
16 or shut or something else?

17 A I don't remember.

18 Q And the Canton Police officer that's inside
19 your home, did you recognize him?

20 A Yes.

21 Q And who did you recognize him to be?

22 A The last name Lank, so Officer Lank.

23 Q And was he someone that you were familiar
24 with?

25 A I knew who he was, yes.

1 Q Did you socialize or were you friends or
2 anything like that?

3 A I didn't socialize with him. I knew him to be
4 a Canton Police officer. I had met him, you know,
5 multiple times and I knew him to know my brother,
6 Chris.

7 Q And, so, you knew him -- essentially what I'm
8 asking, you knew him in a professional capacity, a
9 personal capacity, or a little bit of both?

10 A I would say more of a professional capacity,
11 and I knew of him but did not hang out with him
12 socially.

13 Q And initially when you first see Officer Lank,
14 is he by himself or who, if any other officers, are
15 with him?

16 A I believe initially he was by himself.

17 Q And did another officer join yourself and
18 Officer Lank at some point?

19 A Yes. I believe another officer came into the
20 house.

21 Q And do you know who that officer is?

22 A I don't. I don't.

23 Q And, as far as them coming into your house,
24 they were welcome in your house, you didn't say get out
25 or close the door or anything like that?

1 A No. Of course they were welcome in my house.

2 Q And where did you go with the officer sort of
3 in your house? You spoke with the officer, I'm
4 presuming?

5 A Yes. We spoke in the kitchen area.

6 Q And, when you're speaking with the officer in
7 the kitchen area, who is there?

8 A So my wife, Nicole; her sister, Jen; and I
9 believe Jen's husband, Matt, arrived almost the same
10 time that I came downstairs, maybe a minute after.

11 Q And how long a period of time was this
12 conversation that occurred in the kitchen in your
13 house?

14 A I don't remember the exact time. I wouldn't
15 want to guess. I don't remember. Ten, fifteen, twenty
16 minutes, maybe, initially.

17 Q And, when you say "initially," was there a
18 subsequent conversation that occurred after that?

19 A Yes. The officers -- Officer Lank returned to
20 the house sometime after that.

21 Q And, when he returned sometime after that, was
22 he -- again, was he alone or was there another officer
23 with him?

24 A I believe at that time he was with
25 Lieutenant Gallagher, perhaps.

1 Q And were you familiar with Lieutenant
2 Gallagher prior to that morning?

3 A I knew who Lieutenant Gallagher was on a
4 professional level. I had not hung out with him on a
5 social level.

6 Q And, again, they were welcomed into your home
7 and you spoke with them; is that correct?

8 A Yes. The second time they were there they
9 were invited back to the house via a phone call.

10 Q And that second conversation within your
11 house, where did that occur?

12 A Same area. Family room/kitchen area.

13 Q And, if you know, about how long a period of
14 conversation was that, that second come back to the
15 house?

16 A That may have been longer. Maybe a half hour.

17 Q Now, going back to sort of that initial
18 conversation as far as -- so it's yourself, it's
19 Mr. and Mrs. McCabe, your wife, and then the police; is
20 that correct?

21 A Myself; my wife, Nicole; my sister-in-law,
22 Jen; her husband, Matt, had arrived; and the police,
23 yes.

24 Q And in between that first speaking with the
25 police and the second time that the police came back to

1 your house, who, if anyone, did you call or notify in
2 regard to the situation that was going on in front of
3 your house?

4 A I called Brian Higgins.

5 Q And why did you call Brian Higgins?

6 A Because I think it was important for him to
7 know what was going on and what had happened.

8 Q And, as far as you knew with reference to
9 Mr. O'Keefe and Ms. Read, what, if any, relationship,
10 friendship, anything were you aware of between
11 Mr. Higgins and either Mr. O'Keefe or Ms. Read?

12 A I was not aware too much about a relationship
13 with Brian and either person. Brian had mentioned,
14 maybe even that night, that he was friendly and knew
15 John. I knew of no relationship between Brian and the
16 defendant.

17 Q And following your conversation with
18 Mr. Higgins who, if anyone else, came over your house?

19 A So Brian Higgins eventually came over to my
20 house and my sister-in-law Julie also arrived at my
21 house.

22 Q And do you know why your sister-in-law Julie
23 came by your house that night?

24 A Yes.

25 Q And why was that?

1 A So she has a routine that when it's someone's
2 birthday she likes to come by and bring like coffee and
3 donuts. So it was Brian's birthday that night, so my
4 sister-in-law Julie was coming by to drop off some
5 donuts and coffee, I think.

6 Q And where was Julie when you first saw her
7 that morning?

8 A She was out front in the driveway.

9 Q And what, if anything, did you ask Julie to do
10 when you saw her out in the driveway?

11 A I asked her to come inside.

12 Q And, when she came inside, is that when you
13 informed her of what had happened?

14 A Yes. I don't know if it was necessarily me
15 that informed her, but people that were there were
16 explaining to her what happened. It was a very
17 chaotic, unbelievably chaotic morning.

18 Q And, as far as when that was described to your
19 sister-in-law Julie, how would you describe sort of her
20 demeanor or her reaction to the news regarding
21 Mr. O'Keefe?

22 A Shock. That's how I would describe
23 everybody's reaction that morning, was utter shock.
24 She was upset and looked very, very in shock.

25 Q And, so, the second time that the Canton

1 Police officers come back to your home, who is there at
2 that point?

3 A I know I was there for sure; my wife, Nicole;
4 Jen; her husband, Matt. Brian Higgins may have been
5 there at that time. And I'm not sure about Julie.
6 Julie at one point left the house and I think she came
7 back later in the morning, so I'm not sure if she was
8 there.

9 Q And at some point when your sister-in-law
10 Julie came back to your house, who, if anyone, came
11 back to -- who, if anyone, came to your house with her?

12 A Her husband. My brother Chris, who's her
13 husband.

14 Q And was this before or after the second time
15 that the police had been at your house?

16 A I believe they came back after the second
17 time, but I'm not a hundred percent sure. The first
18 time that Julie came with the coffee the police were
19 not there.

20 Q Now, when you first sort of get up, you come
21 downstairs and the police are basically in your
22 doorway; is that correct?

23 A Yes.

24 Q Could you see outside as far as what was going
25 on outside at that time?

1 A Not from downstairs. But I had looked out the
2 window after Jen had come up into my room and explained
3 what had happened and before I went downstairs.

4 Q And when you looked out your window from your
5 bedroom what did you see?

6 A I could see at least one police vehicle. I
7 could see that there was something going on out front,
8 and that was about it. And I just went straight
9 downstairs.

10 Q And at that time that you looked out your
11 window did you see either an ambulance or a fire truck
12 out there?

13 A I don't remember if I saw an ambulance. There
14 were emergency vehicles out there, but I can't remember
15 exactly which types.

16 Q And at any point in time, at that time or
17 subsequent throughout the course of the day, did you go
18 out to that area of your yard where you saw the
19 cruisers and the sort of lights?

20 A No.

21 Q And why not?

22 A I didn't see that there was a reason to go out
23 to that area. The police had already been in my house.
24 They had already talked to us about what was going on.
25 It was a snowstorm at that point. They were trying to

1 conduct an investigation and I didn't want to interfere
2 with it or have anything to do with it.

3 Q Now, as far as what you're learning sort of
4 when Jennifer McCabe first comes sort of barging into
5 your bedroom at 6:00 or 6:30 in the morning, at any
6 point around there were you made aware of where
7 John O'Keefe was at that point?

8 A Yes.

9 Q And what were you made aware of?

10 A I was made aware that he was taken to the
11 hospital.

12 Q So that by the time that you're awoken by
13 Mrs. McCabe John O'Keefe is, to your knowledge, not
14 outside anymore?

15 A To my knowledge, I believed he was on the way
16 to the hospital.

17 Q Now, later on in the course of that day, at
18 some point did you have occasion to speak with some
19 troopers from the state police?

20 A Yes.

21 Q And, if you recall, who is it that you spoke
22 with?

23 A So I spoke with Trooper, last name, Proctor
24 and then another trooper. And I don't know the last
25 name, first name Yuri.

1 Q Would it be Sergeant Bukhenik?

2 A It could be.

3 Q And had you met either of those troopers prior
4 to that day?

5 A I had never met Trooper Proctor. I had met
6 Trooper -- I forget. What is the last name?

7 Q You met Trooper Yuri?

8 A Yuri. I had a met him. I had met him once or
9 twice before.

10 Q And was that in a professional capacity?

11 A Yes.

12 Q And where did you speak with them on that day?

13 A At my sister-in-law Jen's house.

14 Q And, if you recall, about what time of day was
15 it that you spoke with them?

16 A It was late morning, early afternoon the day
17 of the incident. I don't know the exact time. Before
18 noon, I think.

19 Q And why was it that later on that day that you
20 were over your sister-in-law Jennifer McCabe's house?

21 A Well, my sister-in-law Jen and her husband
22 Matt were leaving my house. My sister-in-law was
23 distraught. I wanted to be comforting to them and be
24 there for them if they needed anything and I drove to
25 their house.

1 Q And, in speaking of your sister-in-law,
2 Jennifer, this is someone you've known since she was
3 how old?

4 A Six. Six, seven years old. She's like a
5 little sister to me.

6 Q And, at the point that you're going over to
7 the house, did you know that there were going to be
8 troopers from the state police over at the house?

9 A Yes.

10 Q And fair to say they asked to talk to you; is
11 that correct?

12 A Yes.

13 Q And do you know who, if anyone else, they
14 spoke to at your sister-in-law's house that day?

15 A I believe they spoke with Jen, my sister-in-
16 law, Jen; and then her husband, Matt; and then myself.

17 Q And, so, was that done sort of in a group
18 setting or was it separate or something else?

19 A Separate.

20 Q And, so, they spoke to you in one area of the
21 house while Jennifer and Matthew McCabe were in another
22 area of the house and vice versa for each?

23 A Yes. I spoke with them at the dining room
24 table and they, Jen and Matt, were not present. I
25 believe they may have been upstairs or somewhere else

1 in the house.

2 Q And, if you know, where were you when the
3 troopers were talking to either Jennifer McCabe or
4 Matthew McCabe?

5 A So I was upstairs when they were being spoken
6 to.

7 MR. LALLY: If I may have one moment, Your
8 Honor?

9 THE COURT: Yes.

10 MR. LALLY: May I approach, Your Honor?

11 THE COURT: Yes.

12 BY MR. LALLY:

13 Q Sir, I'm going to show you a series of eight
14 photographs and just ask you to review them and look up
15 when you're finished.

16 A Sure.

17 Q And, sir, what I've just presented you, what's
18 been previously marked as Exhibits 58 through 65,
19 generally speaking do you recognize what's depicted in
20 those photographs?

21 A Yes.

22 Q And what do you recognize it to be?

23 A So the photos appear to be the front yard in
24 front of my old house at 34 Fairview Ave.

25 Q And, from those photographs, do they appear to

1 be a fair and accurate portrayal of what your house and
2 your yard looked like around time; is that correct?

3 A Yes.

4 MR. LALLY: Your Honor, with the Court's
5 permission, I would ask to publish those for the
6 jury, just to discuss with the witness briefly.

7 THE COURT: Okay. You can put them up,
8 Ms. Gilman.

9 MR. LALLY: Ms. Gilman, if you could start
10 with Exhibit 58?

11 (Whereupon, the photograph was displayed.)

12 BY MR. LALLY:

13 Q And, Mr. Albert, sir, there should be on the
14 desk in front of you a laser pointer. Actually, we
15 already talked about that.

16 So what's up on the screen currently, do you
17 recognize -- is that what's depicted in Exhibit 58?

18 A I have them out of order here. Just give me
19 one second.

20 So, yes, this looks like the photo, Exhibit
21 58, that you handed me.

22 Q And this is a photograph of your house or, if
23 I'm standing on the street, to the left side of the
24 property; correct?

25 A Yes.

1 Q And on this sort of left side of your property
2 -- well, let me ask you this first. As far as between
3 the roadway of Fairview Road and your front lawn, is
4 there anything there as far as a sidewalk or anything
5 like that?

6 A No, there's no sidewalk. So the grass area
7 goes right to the curb and then there's the street.

8 Q And the curb that's in between the grass and
9 the roadway, is that like a straight curb, a straight
10 edge curb, granite curbing, or like rounded curbing?
11 How would you describe that?

12 A I would just describe it as regular curbing.
13 It's not granite. The color is black, so it seems like
14 a tar curbing.

15 Q And, in this area of the left side of your
16 property, what, if anything, of note is sort in that
17 area of the property?

18 A So in that area of the property -- first of
19 all, that's basically the property line from the
20 neighbor's house if you're staring at my house from the
21 front, the neighbor to the left. That's the property
22 line area. But there's a fire hydrant there. There is
23 a flagpole with the American flag and the Marine Corp.
24 flag. And there is a -- we call it like an electrical
25 box, but I'm not sure what the purpose of it is.

1 Q And, so, through all the years that you've
2 lived there either as a child or as an adult, you
3 really don't know what that electrical box does or what
4 it is?

5 A Yes. I don't know if it's operable.
6 Sometimes the door is open. If it's windy, the door of
7 the box blows open, and sometimes it's closed. You
8 know, we don't really have much to do with it.

9 Q And the general area when you looked out the
10 window of your bedroom on the morning of the 29th, as
11 far as where you saw the police vehicles or cruisers,
12 do you see that in this photograph?

13 A Yes. That's the same general area.

14 Q It's the same general area as you were
15 describing with the fire hydrant and the flagpole,
16 things like that?

17 A Yes.

18 MR. LALLY: Ms. Gilman, if I could have the
19 next exhibit, 59?

20 (Whereupon, the photograph was displayed.)

21 BY MR. LALLY:

22 Q And, again, sir, what's up on the screen, is
23 that what you have before you?

24 A What was it? 59?

25 Q Fifty-nine.

1 A Yes.

2 Q And, from this photograph, sir, this is again
3 a picture of your residence around the time of
4 January 29th; correct?

5 A Yes.

6 Q Fair to say this is taken after some of the
7 snow has sort of melted from the storm before, if you
8 can tell?

9 A Yes, it appears that there's less snow in the
10 front there.

11 Q So less snow than what you saw when you looked
12 out your window or at some later point on the 29th?

13 A Yes.

14 Q And, from this photograph, if you could, just
15 direct the jury's attention to the driveway and the
16 garages and sort of where is that located on this.

17 A So my driveway is or was this area right here
18 (Indicating) and that's the garage doors (Indicating).

19 Q And within this photograph as well, you
20 mentioned that there were sort of two doors in the
21 front of your house, one that leads into a foyer area
22 and the other that leads into a living room of some
23 kind. If you could direct the jury's attention to
24 where each of those doors would be on the house, if you
25 can see them?

1 A Sure. So the door right here, we consider it
2 the front door, and that goes into a foyer area. And
3 then -- not from this photo, you can't really see it --
4 but there's a door in this, I guess, breezeway area,
5 and that opens up into the family room.

6 Q And one last thing from this photograph, sir.
7 The window that you were looking out, do you see that
8 window in this photograph as well and could you draw
9 the jury's attention to it?

10 A Yes. I believe it would be this one right
11 here (Indicating) in the corner.

12 Q Thank you, sir.

13 MR. LALLY: Ms. Gilman, if I could have the
14 next exhibit, No. 60?

15 A Did you say six zero?

16 Q Six zero.

17 (Whereupon, the photograph was displayed.)

18 Q And, sir, what's up on the screen, do you
19 recognize that as what you have before you as Exhibit
20 60?

21 A Yes.

22 Q And, from this photograph, as far as the
23 roadway and sort of width of the road from the curb to
24 the double yellow line there, is that generally what it
25 was on January 29th, if that's what the roadway looked

1 like?

2 A The morning of the 29th?

3 Q Well, the morning of the 29th it was snowing;
4 correct?

5 A Right. So the roadway, I believe, would have
6 had some snow on it.

7 Q So what I'm asking is, sir, when you came home
8 that evening or early morning on the 29th, is that
9 essentially what the roadway looked like absent
10 whatever snow was covering it?

11 A Yes.

12 MR. LALLY: The next photograph, Ms. Gilman.

13 (Whereupon, the photograph was displayed.)

14 Q And, again, we're now looking at what is
15 Exhibit 61; is that correct, sir?

16 A One second. Yes.

17 Q And this is essentially a closer-up area of
18 the fire hydrant and electrical box and the flagpole
19 that you were talking about before?

20 A Yes.

21 MR. LALLY: And, Ms. Gilman, if I could have
22 the next photograph?

23 (Whereupon, the photograph was displayed.)

24 Q And, again, what's up on the screen, this
25 would be -- I'm sorry. I lost my train of thought. Is

1 this 62?

2 A Sixty-two. It appears to be, yes, 62.

3 Q So you were mentioning earlier in your
4 testimony that the area where you saw the police
5 cruisers when you looked out your window on the morning
6 of the 29th was near sort of where your property abuts
7 the neighboring property; correct?

8 A Yes.

9 Q And do you happen to know what number that
10 next door neighbor's house is? Is it up or down from
11 34?

12 A I honestly don't. I don't know what number
13 that is.

14 Q And do you see sort of the property line in
15 between your house and the next door neighbor's house?

16 A Yes. I believe that row of trees is the
17 property line.

18 Q So the row of evergreen trees there is sort of
19 where it delineates between your property and the next
20 door neighbor's?

21 A Yes. They appear to be in line from almost
22 the street to the white fence.

23 Q And that white fence sort of in the back right
24 of that photograph, is that the fence that you were
25 talking about before that encloses your back yard?

1 A Yes.

2 MR. LALLY: And the next photograph,
3 Ms. Gilman, No. 62.

4 (Whereupon, the photograph was displayed.)

5 Q And, again, this is just another photograph of
6 the back area of your yard; is that correct?

7 A One second. Sorry. Yes.

8 Q Now, with reference to this area of the yard
9 at your house when you were living there at 34 Fairview
10 Road, is that an area of the yard that would be of
11 particular use, or did you go in that area of the yard
12 all that much?

13 A No, we didn't really use that area too often.
14 There's a large wood chip bed. You can't see it
15 because of the snow, but it kind of covers that area.
16 So we don't really go over there that often.

17 Q Now, sir, with reference to this area of the
18 yard, was there any sort of overhead, like, ambient
19 lighting, street lights, anything like that in that
20 area?

21 A No. So that's a very dark part of the yard.
22 There's no street light there at all.

23 MR. LALLY: And the next photograph,
24 Ms. Gilman.

25 (Whereupon, the photograph was displayed.)

1 Q And, Mr. Albert, I believe this would be
2 No. 64; is that correct?

3 A Yes.

4 Q And, with reference to this, can you describe
5 to the jury what we're looking at in this particular
6 photograph, Exhibit 64?

7 A So that's the front right door, I guess you
8 could say, to the house. And, again, you can't see the
9 door, but it's inside that breezeway area to the left.

10 Q And if you could, just using the laser
11 pointer, direct the jury's attention to what you're
12 talking about?

13 A So the door would be right in here
14 (Indicating).

15 Q And, from the driveway leading up to that
16 front door area you were talking about with the foyer
17 once you get in, what, if anything, is sort of leading
18 you up to the steps there?

19 A To the other door?

20 Q To the other one, to the front door.

21 A There's a brick walkway.

22 Q So a brick walkway leading up to brick steps
23 and into the foyer area of your house?

24 A Yes.

25 MR. LALLY: And the last one, Ms. Gilman.

1 (Whereupon, the photograph was displayed.)

2 Q Mr. Albert, this would be No. 65. And do you
3 recognize what's depicted in this photograph, sir?

4 A Yes.

5 Q And what do you recognize it to be?

6 A So that's the picture of the ground in front
7 of the fire hydrant which is to the left front of my
8 yard.

9 MR. LALLY: You can take that down,

10 Ms. Gilman. Thank you very much.

11 BY MR. LALLY:

12 Q Now, Mr. Albert, the days that sort of
13 followed from January 29th, as far as your home was
14 concerned, what, if any, sort of police presence did
15 you observe or notice sort of in that area in the front
16 yard of your home?

17 A So over the course of the next couple days
18 there were emergency vehicles and police personnel that
19 day and days following in front of the house.

20 Q So later on in the afternoon of the 29th and
21 continuing on for days after; is that correct?

22 A Yes.

23 Q And what, if anything, did you observe as far
24 as the weather was concerned between the date of the
25 29th and the days that the police presence was outside

1 of your house?

2 A I believe it rained a few times during that
3 time.

4 Q And, as far as the snow that had been piled up
5 on your front lawn, what, if anything, was occurring
6 with the snow as the days went on following the 29th?

7 A I believe -- so some of the snow was shoveled
8 out, I believe, during the crime scene, and then some
9 of the snow was just dissipating due to the fact that
10 it was melting and it had rained a bunch of days.

11 Q Now, sir, if I could turn your attention to
12 your house. And, obviously, at some point you moved
13 from the house on Fairview in Canton to Norwood;
14 correct?

15 A Yes.

16 Q And when was that sort of first discussed
17 between you and your wife as far as selling the house?

18 A That was discussed in October, November of --
19 it would have been 2021.

20 Q And what was it that sort of precipitated that
21 discussion as far as selling your house?

22 A Around that time, and it was post-COVID, the
23 housing market seemed really good and my brother Chris
24 had sold his house, was in the process and ultimately
25 sold his house around that time. He got a great deal

1 on it. I had known some other people that had sold
2 around that time. And it was a little early for us
3 because our children weren't all necessarily gone yet,
4 but it was close. And we thought we could get a good
5 deal for the house, so that's when we started exploring
6 it.

7 Q And who, if anyone, did your brother
8 Christopher put you in touch with?

9 A So he put me in touch with a realtor that
10 ultimately sold his house.

11 Q And at some point -- at some point you sold
12 the house?

13 A I did.

14 Q And when was it?

15 A So we didn't end up selling until April of
16 2023.

17 Q And, as far as prior to selling the house,
18 what, if any -- strike that.

19 Did the sale of your house have anything to do
20 with what occurred there on January 29th, 2022?

21 A Absolutely not.

22 MR. LALLY: May I have just one moment, Your
23 Honor?

24 THE COURT: Yes.

25 MR. LALLY: I have nothing further for this

1 witness, Your Honor.

2 THE COURT: All right. Can I see counsel at
3 sidebar for just a second, please?

4 (Whereupon, there was a sidebar conference as
5 follows:)

6 THE COURT: So it's about 10 minutes of four.
7 It's been a long day. Do you want to start or do
8 you want to wait until Monday?

9 MR. JACKSON: I'd rather wait until Monday.

10 THE COURT: Mr. Yannetti, you asked
11 Mr. McDermott about whether we do have that.

12 MR. YANNETTI: Yes. Your Honor, just to be
13 clear, we are very happy with what the Court
14 announced. But I checked my notes and I just
15 wanted to make sure that we were on the same page
16 and the Court understood where we had been, if you
17 don't mind me touching on --

18 THE COURT: Yes. So the 28th, I'm going to go
19 back and ask them if --

20 MR. YANNETTI: If they can do a full day?

21 THE COURT: -- they can do a full day. We are
22 already off the 29th and 31st.

23 MR. YANNETTI: Okay. Well, then, I withdraw
24 what I said.

25 THE COURT: So I thought I'd give you the

1 30th.

2 MR. YANNETTI: I didn't have in my notes that
3 we were off the 31st. That's why I brought it to
4 Mr. McDermott's attention.

5 Court Order: Jurors or Juror Issues

6 And, rather
7 than going -- it gives you two long weekends.

8 MR. YANNETTI: We were very happy with what
9 the Court gave us. I just wanted to make sure we
10 were on the same page.

11 THE COURT: All right.

12 Court Order: Jurors or Juror Issues

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20 MR. YANNETTI: Okay. That's great.

21 THE COURT: So rather than ending that
22 Thursday at 1:00 o'clock, a 12:30
23 I'm just going to say
24 does anyone mind if we go a little later.

25 MR. YANNETTI: Perfect.

1 THE COURT: That gives you another long
2 weekend.

3 MR. YANNETTI: That's great.

4 MR. JACKSON: The other procedural question is
5 I mentioned to Mr. Lally -- and I figured we might
6 as well make use of the time. There is one exhibit
7 that I was considering using, I am considering
8 using. It's not been marked. Mr. Lally has it.
9 It is a video.

10 THE COURT: Did you give it to me? Okay.

11 MR. JACKSON: The Court has it. It's a video
12 of no sound of my investigator and me at the
13 bulkhead, walking to the back gate and then to the
14 front yard.

15 THE COURT: Yes. I can tell you the concern I
16 have.

17 MR. JACKSON: Tell me.

18 THE COURT: You can't be a witness.

19 MR. JACKSON: No.

20 THE COURT: You are in that video. You are
21 in both of them. When I saw those last week, I
22 just -- I can't let them into evidence, even if
23 Mr. Lally agrees.

24 MR. JACKSON: He doesn't.

25 MR. LALLY: For the same reason.

1 MR. JACKSON: It's not a perfect scenario. I
2 think we could overcome that if push came to shove
3 because I did have, I'm smart enough to have a
4 witness with me. Mr. Mackowski was with me and it
5 was videotaped.

6 THE COURT: You should have been videoing it
7 and he should have been in it.

8 MR. JACKSON: Probably. But I didn't. So I
9 just wanted to take the Court's temperature on it.
10 I'm not married to it. If the Court's not
11 comfortable with it, I can parry and use some still
12 photographs.

13 THE COURT: Especially with the objection but
14 when I saw it, I can't let it in.

15 MR. JACKSON: Understood.

16 THE COURT: Okay. So I'll make these dated
17 and announce to the jurors.

18 MR. JACKSON: That would be great. Thank you.

19 MR. LALLY: Thank you, Your Honor.

20 (Whereupon, the sidebar conference concluded.)

21 THE COURT: Mr. Albert, you can step down,
22 sir.

23 (Whereupon, the witness steps down.)

24 THE COURT: All right. So, jurors, rather
25 than start cross-examination of Mr. Albert, we're

1 going to let you break for the day. And I did want
2 to give you some scheduling updates because there
3 have been questions from you folks and requests.
4 So originally -- so next week will be a full week.
5 We're here every day next week. Again, Monday,
6 Wednesday, Friday will be full days. I'd like us
7 to pick up the pace a little bit here, no
8 repetitive testimony, so that we can move things
9 along. But we are moving things along. So Monday,
10 Wednesday and Friday will be full days. Tuesday
11 and Thursday next week will be half days.

12 The week I wanted to address with you, where
13 we were already going to be off the 29th and 31st
14 of that week, there's been a request and it makes
15 sense, we will now take the 29th, 30th and 31st off
16 rather than have you folks come in, so you'll get
17 three full days sort of maybe in the middle of this
18 trial to be able to just kind of regroup.

19 I figured everybody would welcome those days.
20 But I am going to ask you to give us a full day
21 on the 28th. So think about that this weekend.
22 So the Tuesday will be a full day and then
23 Wednesday, Thursday, Friday you'll be down.
24 Okay?

25 June 7th, we're off. We will end June 6th at

1 noon instead of 1:00 o'clock. Okay?

2 So I do have to give you those three cautions.
3 Please do not discuss this case with anyone. Don't
4 do any independent research or investigation into
5 this case. If you happen to see, hear, and read
6 anything about this case, please disregard it. I
7 always like to tell jurors just leave everything
8 here. Your notebooks, literally, figuratively,
9 just leave it here.

10 Have a great weekend and we'll see you Monday
11 morning ready to go.

12 (Whereupon, the jury was escorted from the
13 courtroom and excused until Monday.)

14 THE COURT: So we're still in session. Any
15 other evidentiary issues I should be prepared to
16 spend some time on this weekend?

17 MR. LALLY: Not from the Commonwealth, Your
18 Honor.

19 THE COURT: I heard you say we can wait on
20 that, but I'd like to know is there anything that I
21 should be taking a look at.

22 MR. YANNETTI: Right. No, no, no. I was
23 talking about something different.

24 I think with regard to Brian Albert there's
25 really nothing other than I wanted to talk to my

1 co-counsel over the weekend that the Court could
2 potentially be basically ruling, that you just
3 made, which whether you do or you don't, Your
4 Honor, I think you've heard -- you know, we can
5 hear more potentially. But with regard to
6 Caitlin Albert, Your Honor, there is the issue of
7 the photos between her and Kate McLaughlin. I
8 just wanted to flag that for the Court. I think
9 we've addressed that already and I think the
10 Court had said we take them on a photo-by-photo
11 basis.

12 THE COURT: No. What I said is you need to
13 approach.

14 MR. YANNETTI: Yes.

15 THE COURT: So before she testifies let me
16 know where you stand.

17 MR. YANNETTI: Will do.

18 THE COURT: Before your cross-examination.

19 MR. YANNETTI: Will do.

20 THE COURT: Okay. Do we expect to hear from
21 her next week?

22 MR. LALLY: Yes. I think probably Monday,
23 probably.

24 THE COURT: Okay.

25 All right. Anything else?

1 MR. YANNETTI: Thank you, Judge.

2 MR. LALLY: No, Your Honor. Thank you.

3 (Whereupon, the Court adjourned.)
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C E R T I F I C A T E

I, Paula M. Mills, retired certified court reporter, do hereby certify that the foregoing pages, page 15-3 to 15-261, is a true and accurate transcription of the voice recording in the aforementioned matter to the best of my skill and ability.

This, the 11th day of February, 2025.

\s\ Paula M. Mills

Paula M. Mills

Retired Certified Court Reporter
and Court Transcriptionist